

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13166 of 2008

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Vijay Shankar Thakur son of Late Ramjee Thakur, resident of village Bhowara (Laxmisagar), P.S. Madhubani, District Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue Land Reforms, Old Secretariat, Patna
2. The Collector, Madhubani
3. The Deputy Collector, Land Reforms, Madhubani, District Madhubani
4. The Circle Officer, Rahika, P.S. Rahika, District Madhubani
5. Kumari Indu Pandey wife of Jai Ram Pandey, resident of village Barkodiya, P.S. Krishna Bram asthan (Simri), District Buxar, at present village Bhowara (Laxmisagar), P.S. & District Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kr. Jha, Advocate

For the Respondent Nos. 1 to 4 : Dr. Raj Kumar Singh, AC to SC 8

For the Respondent No. 5 : Mr. Ajay Kumar Thakur, Advocate
Mr. Amit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 07-08-2015

Heard the parties.

2. The petitioner is aggrieved by the order dated 29.01.2008 (Annexure-1) passed in Mutation Revision Case No. 64 of 2004-05 by the respondent District Collector, Madhubani, whereby the aforesaid revision application filed on behalf of the petitioner has been dismissed and order dated 24.12.2002 (Annexure-5) passed by the DCLR, Sadar, Madhubani in Mutation Appeal No. 6 of 1997-98 has been affirmed and direction has been issued for mutating the land in question in favour of the respondent no.5.

3. Learned counsel appearing on behalf of the petitioner submits that originally the land in question was mutated in favour of the petitioner in view of the purchase made by him through a registered sale deed. It is pointed out that subsequently

respondent no.5 filed Mutation Case No. 295 of 1996-97 for mutation of the land in question in her favour in view of the purchase made by her but that was rejected by order dated 23.06.1997 (Annexure-3). According to him, once mutation was made in favour of the petitioner that should not have been reversed by the appellate authority and revisional authority since the petitioner is having possession over the land.

4. The matter has been contested by the State Government and learned counsel appearing on behalf of the respondent no.5. According to them, on the basis of cogent material produced by the parties, the appellate order and revisional order were passed and no legal infirmity has been pointed out by learned counsel for the petitioner. Therefore, the present writ petition is liable to be dismissed.

5. After having heard the parties and on consideration of the materials available on the record, this Court finds that the petitioner viz-a-viz the respondent no.5, both claim the land in question on the basis of registered sale deed executed in their favour by different persons. The respondents, DCLR as also the District Collector have observed in their orders that issue of title is under serious dispute between the parties and that cannot be gone into by revenue authorities.

6. In view of the aforesaid factual matrixes, this Court is of the opinion that the issues raised on behalf of the petitioner viz-a viz the respondent no.5 with respect to the lands under dispute can effectively and conclusively be decided only in a civil suit by the competent civil court. The appellate and the revisional revenue authorities cannot adjudicate upon the claim of right and title of the parties over the land in question.

7. In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to approach the civil court of competent jurisdiction by filing an appropriate civil suit for grant of appropriate relief. If such a civil suit is brought by the petitioner within three months from today after impleading the respondent no.5 and all other necessary parties, then the same shall be decided in accordance with law on the basis of the evidence/materials produced by the parties, but without being influenced/prejudiced by the findings recorded by the revenue authorities in this round of litigation with respect to land under dispute.

8. For the ends of justice, for a period of three months or till filing of the civil suit by the petitioner, whichever is earlier, the parties shall maintain status quo, as obtaining today, over the land in question.

(Birendra Prasad Verma, J)

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