

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2797 of 2015

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1. Most. Sona Devi W/o late Rajmari Singh
 2. Uma Shankar Singh S/o late Rajmari Singh
 3. Most. Srimati Devi W/o late Ramashankar Singh
 4. Santeshwar Mishra, S/o Kamta Mishra
 5. Upendra Kumar Singh S/o Bharat Singh
 6. All resident of vill-Pakwalia, P.S. Daroundha, Dist. Siwan.

.... Petitioners

Versus

1. The State of Bihar through the Collector, Siwan.
2. The Additional Collector, Siwan.
3. The Deputy Collector, Land Reforms, Maharajganj, Dist. Siwan.
4. The Circle Officer, Daraundha, Dist. Siwan.
5. The Revenue Officer, Daraundha, Dist. Siwan.
6. The Circle Inspector, Daraundha, Dist. Siwan.
7. Israil Ansari, S/o late Idd Mohammad, village Pakwalia, P.S. Daraundha, Dist. Siwan.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bishwajeet Singh

For the Respondent/s : Mr. U.S.S.Singh, GP-1

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 16-02-2015

Heard Mr. Bishwajeet Singh learned counsel for the
petitioners and AC to GP-1 for the State.

Some of the petitioners claim to be the land owners
whereas two of them claimed to be the purchasers of part of the
subject land from the land owner(s). In respect of 4 katha, 14 dhurs of
land claimed by virtue of sale deed executed in 1949 the respondents
filed an application for mutation which was considered and rejected.
Aggrieved thereby the respondent no.7 filed an appeal. The same was
allowed by order dated 04.02.2013 (Annexure-3/A). The petitioners
filed a revision thereagainst vide Mutation Revision no. 39 of 2012-
13. The same was considered and rejected observing that the

application raises a serious question of title between the parties. The petitioners assailed the aforesaid order of the revisional Court before the Bihar Land Tribunal, Patna vide BLT case no. 703 of 2014. The Tribunal by order dated 20.11.2014 (Annexure-9) rejected the said application of the petitioners. Hence the writ application.

Mr. Singh, learned counsel for the petitioners, has contended that the sale deed on which the respondents rely is forged and fabricated sale deed. The respondents did not get any possession over the said land by virtue thereof as has been found by the Circle Officer. The order(s) passed by the revisional Court as well as the Tribunal are, therefore, bad in law.

In the order passed by the Tribunal, it has been found and noted that the claim of the land holder is based on inheritance whereas some of the petitioners claimed purchase of those land in 2012-13. On the other hand, the respondents claimed the ownership and possession by virtue of sale deed which was executed in the year 1949. The contention of the petitioners is that the sale deed in favour of the respondent are forged and fabricated in the light of the documents on which he seeks to rely. In my view, the sale deed cannot be called in question in a mutation proceeding. Law in this regard is well-settled. Mutation in register-II neither creates nor extinguishes title. The aggrieved party, in such circumstances, may invoke the jurisdiction of the Civil Court for declaration of his/their

right, title and interest over the land. The Civil Court will have the requisite jurisdiction to declare a particular document as fake or forged based on evidence. The facts of the case persuade me not to invoke discretionary writ jurisdiction of this Court leaving the parties the liberty to seek appropriate remedy before the Court of competent jurisdiction. In that event the mutation order would abide by the decision of the Court.

The writ application is disposed of.

Shyam/-

(Kishore Kumar Mandal, J)

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