

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14346 of 2008

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Banky Bahadur Singh, son of Late Ramchandra Singh, resident of Mohalla-
Bhagwan Bazar, P.O. & P.S. Bhagwan Bazar, District- Saran

.... Petitioner

Versus

1. The Executive Officer, Chapra Nagar Parishad, Chapra, District-Saran

----- Respondent 1st Party

2. Smt. Urmila Devi W/O Sri Pancham Singh, resident of Mohalla- Nai Bazar,
P.O. & P.S. Bhagwan Bazar, District- Saran

.... Respondent 2nd Party

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Appearance :

For the Petitioner/s : Mr. R.R.Sahay, Adv.

Mr. Rohan P.Sahay, Adv.

For the Respondent/s : Mr. Shashi Shekhar Dwivedi, Sr. Advocate

Mrs. Sangeeta Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 06-04-2015

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Heard learned counsel for the petitioner and Sri
Shashi Shekhar Dwivedi, learned Senior Counsel, who was
assisted by Smt. Sangeeta Sharma, learned counsel for
Respondent no.2.

2. The petitioner, invoking writ jurisdiction of this
Court under Article-226 of the Constitution of India has
assailed the order dated 06.05.2008 passed by Respondent no.1/
Executive Officer, Chapra Nagar Parishad, Chapra, which is an
ex parte order, whereby the learned Executive Officer has
allowed the Mutation Review Case, which was filed by
Respondent no.2 vide Mutation Review Case no.293 /07-08. A



plea has been raised that once the Executive Officer (Respondent no.2) on the petition filed by Respondent no.2 for mutation of land measuring 4 Katha 10 Dhurs pertaining to Holding No.24, Circle No.20, Bhagwan Bazar rejected the prayer for mutation, how after about more than three years the same authority i.e. the Executive Officer entertained the Mutation Review petition filed by Respondent no.2, recalled its earlier order and allowed the mutation case in favour of Respondent no.2. It has been argued that once the Respondent no.1, while exercising quasi-judicial jurisdiction, had decided an issue, which was raised by Respondent no.2 against her, at subsequent stage, he was having no authority to recall its earlier order, that too in absence of any statutory provision to recall or review of the earlier order. On this ground alone, he has prayed for quashing of the impugned order.

3. Sri Shashi Shekhar Dwivedi, learned Senior Counsel opposing the prayer of the petitioner submits that it is true that Respondent no.1 was not having jurisdiction to recall its own order, but since certain facts were not earlier brought to the notice of the Executive Officer, he has simply corrected the earlier order and it may not be termed as recall/ review to its earlier order. He further submits that the issue, which was

pending before the Executive Officer, was long back decided in favour of Respondent no.2 and, as such, immediately after noticing those facts by the impugned order has corrected the earlier error.

4. Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of Annexure-2 to the writ petition, it is evident that the prayer of the petitioner for mutation of the land in question was rejected by same authority on 23.01.2004. While rejecting it was also indicated that if Respondent no.2 was having an objection, she was entitled to approach the court of competent jurisdiction, which will have a binding affect. Surprisingly, though the prayer for mutation of Respondent no.2 was rejected in the month of January, 2004, suddenly in the year 2007-08 Mutation Review Case no.293 of 2007-08 was filed by Respondent no.2 and the learned Executive Officer not only entertained the petition but even in absence of the petitioner allowed the same and recalled its earlier order. At the time of argument, learned Senior Counsel, who has appeared on behalf of Respondent no.2, was not in a position to place any statutory provision authorizing the Executive Officer to review/recall of the order. However, a plea was taken that earlier order was

erroneous and, as such, same has been corrected by the Executive Officer. It is settled that unless a quasi-judicial authority is empowered statutorily to review or recall its earlier order, the same authority is having no jurisdiction to recall an issue, which was already adjudicated by the same authority. Entertaining such petition and passing such order amounts to an order without jurisdiction and, as such, the Court is of the considered opinion that the impugned order is without jurisdiction and is liable to be set aside.

Accordingly, the order dated 06.05.2008 passed by the Executive Officer, Chapra Nagar Parishad, Chapra in Mutation Review Case No.293/07-08, contained in Annexure-4 to the writ petition is hereby set aside and the writ petition stands allowed.

(Rakesh Kumar, J)

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