

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19451 of 2013

With
Interlocutory Application No.9100 of 2015

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Shambhu Singh, S/O Late Ram Briksh Singh, of Village Kaiyatar, P.O-
Mow, Police Station- Konch, District- Gaya, At Present CDA Colony, Lal
Bahadur Shastri Nagar, Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Additional Collector, Revenue, Patna.
3. The Land Reforms, Deputy Collector, Patna.
4. The Anchal Adhikari, Sadar, Patna.
5. Ranjeet Singh S/O Late Prabhu Narain Singh Mohalla Saristabad
Rajputana, Police Station- Gardanibagh, District- Patna.
6. Mukesh Singh S/O Sri Kamlesh Kumar Village Sewanan Police Station-
Karauna, District- Jehanabad.
7. Smt. Sharda Devi W/O Shri Kamlesh Kumar Singh Resident Of Village
Sewanan Police Station- Karauna, District- Jehanabad.
8. Sunil Kumar S/O Late Shyama Rai Resident Of Mohalla Dujra Chak,
Post Office And P.O- Patna, Police Station- Budha Colony, Distt- Patna.
9. Smt. Anju Kumari W/O Shri Amarnath Sharma Resident Of Mohalla-
Saristabad, West Tola, Police Station- Gardanibagh, Distt- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Sen Prasad Singh, Adv.
For the Respondent nos.1to4 : Mr. Manoj Kumar Sinha, AC to SC-30
For the Private Respondent nos.7to9 : Mr. Atul Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 15-12-2015

I.A.No.9100 of 2015

The instant Interlocutory Application has been filed purportedly on behalf of the heirs and legal representatives of the sole writ-petitioner Shambhu Singh stating therein that during the pendency of the present writ petition sole petitioner died on 22.12.2014 leaving behind his heirs and legal representatives, fully detailed in paragraph 2 of the present Interlocutory Application, who all are major and have entered appearance through their lawyer by filing their duly executed vakalatnama.

The learned counsel appearing on behalf of the respondents do not raise any objection to the prayer for substitution made in the instant Interlocutory Application.

In above view of the matter, the prayer for substitution is allowed. Let the name of the deceased petitioner be expunged from the array of the parties of the main writ petition and be substituted by his heirs and legal representatives, fully detailed in paragraph 2 of the present Interlocutory Application.

The present Interlocutory Application stands allowed to the extent indicated above.

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With the consent of the parties, the main writ petition has been taken up for consideration on merits.

The original writ petitioner has filed the present writ petition assailing the validity and correctness of the order dated 09.07.2013 passed in Mutation Appeal Case No.67 of 2012-13 by the respondent D.C.L.R., Patna Sadar, as contained in Annexure-12, whereby the aforesaid mutation appeal filed on behalf of the private respondents was allowed and the order dated 24.03.2012 passed by the Anchal Adhikari, Patna Sadar was set aside.

The learned counsel appearing on behalf of the respondents, at the very threshold, has raised the question of maintainability of the present writ petition at this stage. According to them, against the impugned appellate order, the petitioner has an alternative and efficacious remedy before the revisional authority prescribed under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011'). Therefore, according to them, the writ petition is liable to be dismissed on that ground alone.

The submissions made by the learned counsel appearing on behalf of the respondents appear to be correct. In fact, against the impugned appellate order, the petitioner has two alternative remedies: firstly, he has remedy of revision as provided under Section 8 of the Act, 2011; and secondly, after the revision application is decided by the prescribed revisional authority, the aggrieved person will have further remedy before the learned Bihar Land Tribunal, Patna in view of the provisions contained in Section 9 of The Bihar Land Tribunal Act, 2009.

It is well settled that the issues of facts must be raised and conclusively decided by the statutory authorities, at the first instance, and only thereafter powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is dismissed.

However, a liberty is granted to the petitioner to approach the statutory revisional authority for grant of appropriate relief(s) with respect to the lands under dispute as also with respect to the appellate order impugned in the present proceeding.

(Birendra Prasad Verma, J)

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