

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10714 of 2005

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1. Rajendra Pd.@ Rajendra Mahto son of Late Mangal Mahto
 2. Babulal Mahto son of Late Jagroop Mahto, both are resident of Village- Machahan, P.S. Motihari Muffosil, P.O. Sirsa Colony, District East Champaran.
 3. Jagdish Prasad
 4. Mahesh Prasad, both sons of Bira Prasad, resident of village Dhakahan, Tola Lakshman, P.S. Muffosil, P.O. Dhekahan, District East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran, Motihari.
4. The Additional Collector (Land Ceiling) East Champaran, Motihari.
5. The Land Reforms Dy. Collector, Motihari.
6. The Circle Officer, Motihari, P.O. Motihari, East Champaran.
7. Laxmi Narayan Mahto son of Sri Duki Mahto, resident of Village- Rolhuarwa, P.S. Motihari Muffosil, District East Champaran. (expunged vide order dated 16.07.2013 and substituted by his following heirs:)
 - (a) Mostt. Rajpate Devi wife of Late Laxmi Narayan Mahto.
 - (b) Alok Kumar son of late Laxmi Narain Mahto
 - (c) Anil Kumar son of late Laxmi Narayan Mahto
 - (d) Meena Kuer wife of Late Suresh Kumar @ Raghu PrasadAll are resident of village- Kolbuarawa, P.S. Motihari Muffasil, District East Champaran.
8. Hiralal Mahto
9. JKrishnalal Mahto
10. Diplal Mahto
11. Chhotelal Mahto, all are sons of Ram Narain Mahto, resident of Kolhurwa, P.O. Motihari, P.S. Muffasil, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sriprakash Srivastava, Adv.
Ms. Anu Priyadarshi, Adv.

For the Respondent No. 1 to 6 : Mr.Ajay Kumar Sharma, AC to PAAG

For the Respondent No.7 Mr. Vijay Shankar Shrivastava, Adv.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 25-07-2016

Heard the parties.

The matter at issue is the claim of the parties for mutation of their names with respect to the lands in question, fully detailed in paragraph-3 of the writ petition.

The petitioners are aggrieved by the order dated 11.02.2004

(Annexure-8) passed in Mutation Revision Case No. 120 of 1993-94 by the respondent Commissioner, Tirhut Division, Muzaffarpur, whereby the aforesaid revision case filed on behalf of the petitioners has been dismissed and the order dated 15.07.1993 passed by the respondent Additional Collector, Motihari, as contained in Annexure-7 to the writ petition, has been affirmed.

The learned counsel appearing on behalf of the petitioners has argued the matter at some length in support of the claim of the petitioners for mutation of their names with respect to the lands in question, but finally he fairly conceded that the claim of mutation raised on behalf of the petitioners with respect to the lands in question has been rejected by all the three statutory authorities. He further submitted that after the final order passed by the respondent Divisional Commissioner, some more developments have taken place with respect to the lands in question and the aforesaid facts have been brought on the record in I.A. No. 2964 of 2013. He also fairly conceded that there are serious dispute of right, title and possession of the parties over the lands in question.

The learned counsel appearing on behalf of the original respondent no.7, who is now dead and has been substituted by his heirs and legal representatives, has submitted that the claim of the petitioners has been rejected by all the three statutory authorities and the issues of right, title and possession raised on behalf of petitioners can be appropriately gone into only by the competent civil court.

In view of the aforesaid fair stand taken by the learned counsel appearing on behalf of the parties, the present writ petition is disposed of with a liberty to the petitioners to approach the civil court of competent jurisdiction for getting their right, title and possession declared over the lands in question, after impleading all the necessary

parties including the subsequent transferees.

It is clarified that if an appropriate civil suit is brought by the petitioners within a period of three months from today, after impleading all the necessary parties, then the same shall be decided on its own merits on the basis of the evidence/ materials produced by the parties, but without being prejudiced/ influenced by the findings recorded by the revenue authorities in the impugned mutation proceeding.

(Birendra Prasad Verma, J)

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