

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11212 of 2006

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1. Smt. Tara Devi wife of Suresh Pd., resident of Karma Road, Adarsh Colony, Aurangabad, P.S. and District Aurangabad.
 2. Smt. Basmati Devi wife of Arjun Ram of Village Ordish P.S. Kutumba, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad.
3. The Deputy Collector, Land Reforms, Aurangabad.
4. The Sub-Divisional Officer, Aurangabad.
5. The Anchal Adhikari, Kutumba, P.S. and District Aurangabad.
6. Jagdish Tiwary son of late Ram Prit Tiwary (Expunged vide order dated 16.10.2008 and substituted by his following heirs and legal representatives:
6(a) Savitri Kuer wife of Jagdish Tiwary
(b) Birendra Tiwary
(c) Upendra Tiwary
(d) Sampurnand Tiwary
(e) Chandra Bhushan Tiwary
(f) Brajesh Tiwary, all sons of late Jagdish Tiwary.
All are residents of village P.O. and P.S. Kutumba, District Aurangabad.
7. Upendra Tiwary son of Jagdish Tiwary, both are residence of Village, P.O. and P.S. Kutumba, District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamteshwar Prasad, Adv.
For the Respondent No.1 to 5 : Mr. Ajay Kumar Sharma, AC to PAAG-I
For the Respondent No. 6(a) to (f) & 7: Mr. Yogendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 08-08-2016

Heard the parties.

The matters at issue are the orders passed by the revenue authorities with respect to mutation of the lands in question, fully detailed in paragraph-3 and 4 of the writ petition.

By order dated 13.07.2004 passed in Mutation Case No. 174 of 2004-05 by the respondent Anchal Adhikari, Kutumba, as contained in Annexure-1 to the writ petition, the claim of mutation of the names of the petitioners with respect to the lands in question was

allowed. The order passed by the Anchal Adhikari, Kutumba has been reversed by the respondent D.C.L.R., Aurangabad by order dated 06.11.2005 passed in Mutation Appeal No. 8 of 2004-05, as contained in Annexure-2 to the writ petition.

The learned counsel appearing on behalf of the petitioners submits that against the appellate order, the petitioners have filed a Revision Case No. 5 of 2006 before the District Collector, Aurangabad, which is still pending, yet in the meantime, by the impugned letter dated 25.07.2006, as contained in Annexure-4, the S.D.O., Aurangabad has directed the Anchal Adhikari, Kutumba as also the Officer-Incharge of Kutumba P.S. to execute the order of the appellate authority, which, according to him, cannot be sustained in law.

The learned AC to PAAG-I appearing on behalf of the respondent Nos. 1 to 5 and the learned counsel appearing on behalf of the private respondents, on the other hand, submits that for the lands in question the petitioners have themselves filed Title Suit No. 209 of 2005, which is still pending before the civil Court, Aurangabad. By way of reply, the learned counsel appearing on behalf of the petitioners submits that, in fact, the petitioner no.2 has filed Title Suit No. 2 of 2005 and the petitioner no.1 has filed Title Suit No. 249 of 2005, which are pending before the learned Sub-Judge, Aurangabad.

In view of the admitted position that with respect to the lands in question civil suits are pending between the parties, this Court directs the revenue authorities to restrain themselves from passing any order of mutation in favour of either parties with respect to the lands in question, but the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question in the aforesaid pending title suits. On

the basis of judgment and decree to be passed by the civil court in the pending title suits, question of mutation shall be considered afresh by the revenue authorities in accordance with law.

It is further clarified that the findings recorded by the revenue authorities either in favour of the petitioners or in favour of the private respondents in the impugned mutation proceedings with respect to the lands in question, shall not in any way prejudice the case of the parties in the aforesaid pending title suits.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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