

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1124 of 2013

IN

Civil Writ Jurisdiction Case No. 13227 of 2005

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Sardar Harbhajan Singh, Son of Late Sardar Luxmeshwar Singh, Resident of Village Barari, P.S. Barari, District- Katihar

.... Appellant/s

Versus

1. The State of Bihar
2. The Collector, Katihar
3. The Deputy Collector Land Reforms, Katihar
4. The Anchaladhikari, Anchal Barari, District Katihar
5. Akamal Hussain Son of Late Fazlur Rahman Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar
6. Ajmal Hussain Son of Late Fazlur Rahman Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar
7. Mohammad Aslam Son of Late Mohammad Hazarat Ali Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar
8. Md. Taslim Son of Late Mohammad Hazarat Ali Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar
9. Mohammad Nasim Son of Late Mohammad Hazarat Ali Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar
10. Sardar Mahindra Singh S/O Sardar Luxmeshwar Singh Resident of Village Margria Sardar Tola, P.S. Barari, Distt. Katihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nirmal Kumar Shrivastava, Advocate

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-09-2016

Learned counsel for the appellant states that during pendency of this appeal, the appellant has died. Ordinarily, we would have permitted the appellant to file substitution application, but, in our opinion, that may not be necessary, inasmuch as, we are

not inclined to interfere in the matter.

The present appeal arises from the order of dismissal of the writ petition dated 16.07.2013, passed in C.W.J.C. No. 13227 of 2005 (Sardar Harbhajan Singh Vs. The State of Bihar and others).

The facts are not in dispute. The writ petitioner-appellant claimed that there was large number of joint family lands which were partitioned. He applied for mutation of his name to the share that he was allotted. All lands except piece of about 2.20 acres of land appertaining to revisional survey plot no. 5352 under revisional survey khata No. 450 situated in Barari Circle District Katihar, could not be mutated because from the revenue Register-II it appeared that it had been mutated recently in the name of private respondent nos. 5 to 9 upon a sale deed executed by respondent no. 10 Sardar Mahindra Singh, the brother of the writ petitioner-appellant.

By filing application before the authorities the writ petitioner-appellant sought to challenge the authority of his brother to sell the land to private respondents. All the authorities in the mutation proceedings held that this was purely a civil dispute in relation to title suit, which they were not competent to decide. It is upon the writ petitioner-appellant to move the Civil Court for declaration of his right, title and interest and for setting aside the sale

deed by respondent no. 10 in favour of respondent nos. 5 to 9. Upon challenge being made in the writ proceedings, it is exactly what the learned Single Judge has also held. We concur fully with the order of the learned Single Judge. Such questions where there are serious dispute as to right, title and interest of a person, as also requiring a duly registered sale deed to be declared void, can only be appropriately dealt with in Civil Courts and the revenue authorities have no such jurisdiction.

We, therefore, find no cause for interference in the order of the learned Single Judge. The appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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