

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10528 of 2015

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Smt. Anupama Chaudhary

.... Petitioner/s

Versus

The Municipal Commissioner, Bhagalpur & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey

For the Respondent/s : Mr. Manoj Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 26-09-2016

Heard the learned senior counsel, Mr. Ganpati Trivedi for the petitioner, the learned counsel, Mr. Ajit Kumar for respondent No.2 and the learned counsel, Mr. Manoj Kumar Sinha for respondent No.1.

Perused the impugned order/judgment dated 24.03.2015 passed by 1st Additional District Judge, Bhagalpur in Misc. Appeal No.2 of 2011 whereby the Court below has directed the Municipal Commissioner, Bhagalpur to pass order afresh keeping in mind the possession of the party only.

It appears that the lower appellate court while passing the impugned judgment has considered the decision of the Patna High Court in 1987 PLJR 1037 and held that for mutation, the only consideration can be made in favour of a person who is found to be in possession of the property. So far the question regarding acquisition of title of the petitioner is concerned, the sale deed is

under challenge in Title Suit No.374 of 2004.

In view of the above fact that when the lower appellate court has only remanded the matter for a fresh decision, in my opinion, it is not a case for interference in supervisory jurisdiction as it cannot be said that by the impugned order, the Court below has passed the order/judgment in the manner not permitted by law or that it occasioned failure of justice or that it prejudiced the parties in any way.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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