



IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16034 of 2005

With
Interlocutory Application No. 1473 of 2009
And
Interlocutory Application No. 8026 of 2009
And
Interlocutory Application No. 4609 of 2011
And
Interlocutory Application No. 6964 of 2016
And
Interlocutory Application No. 7628 of 2016

- =====
1. Sheo Kumar Kewat son of Late Sahdeo Kewat
 2. Champa Devi wife of Dudhnath Kewat Ram Newas Bind son of Sheo Nath Bind, resident of Village Matar, P.S. Bhagwanpur, District- Kaimur (Bhabhua)
- Petitioner/s

Versus

1. The State of Bihar
2. Collector, Kaimur at Bhabhua.
3. Deputy Collector Land Reforms, Bhabhua, Dist. Kaimur.
4. Anchal Adhikari, Bhagwanpur, District Kaimuar.
5. Rammuni Dvi wife of Narad Bind.
6. Dhanwa Devi wife of Kishore Bind
7. Mungawan Devi wife of Suresh Bind.
8. Suresh Bind
9. Bahadur Bind
10. Kishore Bind
11. Lalat Bind
12. Narad Bind, all sons of Late Mangaru Bind.
13. Sita Ram Bind
14. Sant Bind
15. Basant Bind
16. Awadhesh Bind, sons of Late Jieut Bind.
17. Sulochana Devi wife of Prem Narain Bind, resident of village Kunddi, P.S. Chas Distt. Kaimur.
18. Baldeo Kewat son of Late Narayan Kewat, resident of Village Matar, P.S. Bhagwanpur, District- Kaimur (Bhabhua).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahesh Prasad, Adv.
For the Respondent Nos. 1 to 4 : Mr. Ajay Kumar Sharma, AC to PAAG-1
For the Respondent Nos. 5 to 18: Mr. Rama Shankar Pradhan, Sr. Adv.
Mr. Jainendra Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 03-10-2016

**Re.: I.A. No. 1473 of 2009, I.A. No. 8026 of 2009, I.A. No.4609
of 2011, I.A. No. 6964 of 2016, I.A. No. 7628 of 2016**

Heard the parties.

I.A. No. 1473 of 2009 has been filed on behalf of the surviving petitioner No.1 for substituting the heirs and legal representatives of the deceased petitioner no.2, who is said to have died on 16.10.2008 leaving behind her heirs and legal representatives, fully detailed in paragraph-2 of the aforesaid interlocutory application.

The learned counsel appearing on behalf of the petitioners submits that all the proposed heirs of the deceased petitioner No.2 are major and they all have entered appearance through their learned counsel by filing their duly executed Vakalatnama.

I.A. No. 8026 of 2009 has been filed on behalf of the petitioners for substituting the heirs and legal representatives of the deceased respondent No. 14- Sant Bind, who is said to have died on 20.8.2009 leaving behind his heirs and legal representatives, fully detailed in paragraph-2 of the aforesaid interlocutory application.

I.A. No. 4609 of 2011 has been filed on behalf of the petitioners for substituting the heirs and legal representative of deceased respondent No. 5- Rammuni Devi, who is said to have died on 27.6.2010 leaving behind her heirs and legal representatives, fully detailed in paragraph-2 of the aforesaid interlocutory application.

I.A. No. 6964 of 2016 has been filed purportedly on behalf of the heirs and legal representative of deceased petitioner No. 1,

stating therein that during the pendency of the writ petition, petitioner No.1- Sheo Kumar Kewat died on 9.10.2012 leaving behind his heirs and legal representatives, fully detailed in paragraph-2 of the aforesaid interlocutory application.

The learned counsel appearing on behalf of the petitioners submits that all the proposed heirs of the deceased petitioner No.1 are major and they all have entered appearance through their learned counsel by filing their duly executed Vakalatnama.

I.A. No. 6964 of 2016 has also been filed for substituting the heirs and legal representatives of the respondent no. 8- Suresh Bind and respondent no. 10- Kishore Bind, who are said to have died on 23.6.2015 and 14.10.2014 respectively leaving behind their heirs and legal representatives, fully detailed in paragraph-3 and 4 respectively of the aforesaid I.A. No. 6964 of 2016.

I.A. No. 7628 of 2016 has been filed on behalf of the petitioners for substituting the heirs and legal representatives of the deceased respondent No. 17- Sulochana Devi, who is said to have died on 15.1.2010 leaving behind her heirs and legal representatives, fully detailed in paragraph-2 of the aforesaid interlocutory application.

The learned counsel appearing on behalf of the respondents do not raise any objection to the prayer for substitution made in the aforesaid interlocutory applications.

After having heard the parties and taking into consideration the pleadings in the aforesaid interlocutory applications, the prayer for substitution made in the aforesaid interlocutory applications is allowed. Let the names of the deceased petitioners and the deceased respondents, referred to above, be expunged from the array of the parties of the main writ petition and they be substituted by their heirs and legal representatives, mentioned in the aforesaid interlocutory

applications, as indicated above.

All the aforesaid Interlocutory Applications thus stand finally disposed of.

Re.: Civil Writ Jurisdiction Case No. 16034 of 2005

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

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 8.2.2005 passed in Mutation Revision Case No. 15 of 1999 by the respondent District Collector, Kaimur (Bhabhua), as contained in Annexure-8 to the writ petition, whereby the aforesaid mutation revision case filed on behalf of the respondent no. 5 and others has been allowed and the order dated 28.7.1999 (Annexure-7) passed by the appellate authority i.e. D.C.L.R., Bhabhua in Mutation Appeal No. 34 of 1997-98 has been set aside and the order dated 27.11.1997 passed by the Anchal Adhikari, Bhagwanpur in Mutation Case No. 198 of 1997-98, as contained in Annexure-6, dismissing the prayer of the petitioners for mutation of their names with respect to the lands in question has been affirmed.

The matter in issue is the claim of the parties for mutation of their names with respect to the lands in question, fully detailed in paragraph-4 of the writ petition.

The petitioners are claiming for mutation of their names on the basis of the deed of adoption dated 17.12.1971 (Annexure-1).

Admittedly, the claim of mutation raised on behalf of the original petitioners was rejected by the Anchal Adhikari, Bhagwanpur (respondent No. 4) by his order dated 27.11.1997 passed in Mutation Case No. 198 of 1997-98, as contained in Annexure-6 to the writ petition. However, the appellate authority i.e. D.C.L.R., Bhabhua set



aside the aforesaid order and allowed the claim of mutation raised on behalf of the original petitioners by his order dated 28.7.1999 passed in Mutation Appeal No. 34 of 1997-98, as contained in Annexure-7 to the writ petition. The respondent nos. 5 and others, being aggrieved by the aforesaid appellate order, preferred Mutation Revision Case No. 15 of 1999 before the respondent District Collector, Kaimur (Bhabua), which was finally allowed by the impugned revisional order dated 8.2.2005, as contained in Annexure-8 to the writ petition. Thus, apparently, the claim of mutation raised on behalf of the original petitioners was rejected by the original authority as also the revisional authority.

The learned counsel appearing on behalf of the petitioners, while assailing the validity and correctness of the impugned revisional order, has referred to various documents including the orders passed by the consolidation authorities as also the land ceiling authorities. He has also referred to the deed of adoption dated 17.12.1971. By referring to the aforesaid documents, it is contended that the orders passed by the original authority as also the revisional authority are not sustainable.

The learned Senior counsel appearing on behalf of the private respondents, on the other hand, has also referred to various documents including the different sale deeds executed in favour of the private respondents. By referring to the aforesaid documents, he submitted that the impugned order passed by the revisional authority cannot be legally faulted. He next contended that the very claim of right and title of the petitioners over the lands in question is under serious dispute, which cannot be appropriately considered by the revenue authorities; therefore, according to him, if the petitioners are at all aggrieved, then they may approach the civil court of competent

jurisdiction for getting their right and title declared over the lands in question, and only thereafter, their prayer for mutation can be appropriately considered by the revenue authorities.

The learned AC to PAAG-1 appearing on behalf of the respondent nos. 1 to 4 submitted that the question of title raised on behalf of the parties cannot be appropriately considered by the revenue authorities. Therefore, the order passed by the respondent D.C.L.R. has rightly been set aside by the respondent District Collector. He next contended that the parties may be relegated to the civil court for getting their right and title declared over the lands in question.

After having heard the parties and taking into consideration the materials available on the record, this Court finds that in the present case there is serious dispute of right and title between the parties with respect to the lands in question, which cannot be effectively gone into by the revenue authorities, while deciding the claim of the parties for mutation of their names with respect to the lands in question. Admittedly, the claim of mutation raised on behalf of the petitioners has been rejected by the original authority as also the revisional authority, but it was allowed by the appellate authority. Therefore, the petitioners have lost before two authorities, but succeeded before one authority.

In view of serious and complicated nature of dispute regarding right and title between the parties with respect to the lands in question, this Court is not persuaded to interfere with the impugned order dated 8.2.2005 passed in Mutation Revision Case No. 15 of 1999 by the respondent District Collector, Kaimur (Bhabhua), as contained in Annexure-8 to the writ petition. Accordingly, the writ petition is dismissed. However, this will not come in the way of the

substituted petitioners to approach the civil court of competent jurisdiction for getting their right and title declared over the lands in question as also for grant of other appropriate relief(s) to them with respect to the lands in question.

In the facts and circumstances of the case, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

BTiwary/-

AFR/NAFR	
CAV DATE	
Uploading Date	7-10-2016
Transmission Date	