

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.4526 of 2014**

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Gajadhar Prasad Ramuka son of Late Ramji Das Ramuka, R/O Village-  
Pachrukhai- Bazar, P.S.- Sahkund, District- Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The Additional Collector, Bhagalpur.
4. The Deputy Collector Land Reforms, Sadar Bhagalpur.
5. The Circle Officer, Shahkund, Bhagalpur.
6. Smt. Shashi Bala Devi Singh wife of Sri Ramashish Singh, R/O Village-  
Pachrukhi Bazar, P.S. Sahkund, District Bhagalpur.
7. Sanjay Rakuka
8. Sushil Ramuka, both sons of Gajadhar Prasad Ramuka.
9. Krishnandan Ramuka, son of late Ramji Das Ramuka.
10. Prakash Kumar Dokania.
11. Mantu Kumar Dokania.
12. Bishan Lal Ramuka son of Late Raji Das Ramuka.
13. Manish Kumar Dokania, son of late Bishan Lal Ramuka.
14. Shivanand Ramuka son of late Ramji Das Ramuka.
15. Mikhil Kumar
16. Snesh Kumar, both sons of Shivanand Ramuka, all R/O Village Pachrukhi  
Bazar, P.S. Sakund, District Bhagalpur.

(Respondent no. 7 to 16 deleted by the order dated 21.06.2016 of the Court)

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Respondent No.1 to 5: Mr. Manoj Kumar, AC to SC-13

For the Respondent No.6 : None.

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**

ORAL JUDGMENT

**Date: 21-06-2016**

The learned counsel appearing on behalf of the petitioner seeks permission to delete the name of the respondent no. 7 to 16 from cause title of the writ petition, as according to him, aforesaid respondents have no concern with the lands in question.

Permission is granted at his own risk.

The learned counsel appearing on behalf of the petitioner shall make necessary correction in the cause title of the writ petition by deleting the names of the respondent no. 7 to 17 by red ink during

the course of the day and endorsement to that effect shall be made in the remarks column of the order sheet, failing which the writ petition shall be construed to have rejected on account of non-compliance of the Court's order.

Heard the learned counsel appearing on behalf of the petitioner and the learned AC to SC-13 appearing on behalf of the respondent no. 1 to 5. However, none appears on behalf of the contesting respondent no.6, though she has entered appearance through her lawyer, whose name is printed in the daily cause list.

The petitioner has filed the present writ petition assailing the validity and correctness of the order dated 23.11.2013 passed in Bhagalpur Miscellaneous (Mutation) Appeal Case No. 4 of 2013-14 by the respondent Commissioner, Bhagalpur Division, Bhagalpur, as contained in Annexure-4, whereby the aforesaid appeal filed on behalf of the respondent no. 6 has been allowed and the order dated 9.4.2013 passed by the respondent Additional Collector, Bhagalpur in Mutation Appeal Case No. 2 of 2012-13 (Annexure-3) has been reversed and set aside.

The matter at issue is the mutation of the lands in question, fully detailed in paragraph-6 of the writ petition.

The learned counsel, appearing on behalf of the petitioner, submits that the petitioner and his other family members had filed a petition before the respondent Anchal Adhikari (Circle Officer), Shahkunda for mutation of the lands in question, which gave rise to Mutation Case No. 49A of 2008-09. It is further submitted that the aforesaid mutation case filed on behalf of the petitioner and his other family members was finally allowed by the order dated 06.01.2009 (Annexure-1). It is pointed out that subsequently the respondent no. 6 purchased the lands in question from one Yugal Kishore Ramuka, one



of the co-sharers of the petitioner, by a sale deed dated 18.05.2009 and in that view of the matter, the respondent No.6 filed Mutation Appeal No. 17 of 2009-10 before the respondent D.C.L.R., Sadar, Bhagalpur, which was finally allowed by the order dated 02.04.2012 (Annexure-2). The petitioner, being aggrieved by the aforesaid appellate order, preferred a revision application under Section 8 of The Bihar Land Mutation Act, 2011 (In short 'Act, 2011') before the respondent Additional Collector, Bhagalpur, but it was incorrectly registered as Mutation Appeal No. 2 of 2012-13, though it ought to have been registered as mutation revision case, and it was finally allowed by order dated 09.04.2013 (Annexure-3). The respondent no. 6, being aggrieved by the aforesaid revisional order, approached the respondent Divisional Commissioner, Bhagalpur in Bhagalpur Misc.(Mutation) Appeal Case No. 4 of 2013-14, which was allowed by the impugned order dated 23.11.2013 (Annexure-4).

It is submitted by the learned counsel for the petitioner that under the scheme of the Act, 2011, the Commissioner has not been vested with any power against the order of mutation passed by the statutory authorities, and, therefore, the impugned order is wholly illegal and without jurisdiction and is liable to be set aside on that ground alone.

The learned State counsel appearing on behalf of the respondent no. 1 to 5 has not been able to dispute the aforesaid submissions.

As noticed above, despite valid service of notice and despite appearance of the respondent no.6 through her lawyer, none is appearing on her behalf to dispute the submissions made by the learned counsel appearing on behalf of the petitioner.

After having heard the parties and on examination of the



materials available on the record, this Court finds that the mutation case was originally filed on behalf of the petitioner and his other family members under the provisions of The Bihar Tenant's Holding (Maintenance of Records) Act, 1973 (In short 'Act, 1973'). Indisputably, the Act, 1973 stood repealed by virtue of the provisions contained in Section 23 of the Act, 2011. Under the scheme of the Act, 2011, the power for mutation of any plot or parcel of land is vested with the Circle Officer of the area concerned in terms of Section 3 of the Act, 2011. Against the order passed by the Circle Officer, an appeal is provided under Section 7 of the Act, 2011 before the Land Reforms Deputy Collector of the area concerned. Against the appellate order, a revision application under Section 8 of the Act, 2011 is maintainable before the Collector/ Additional Collector of the district. Thereafter, no other statutory forum has been created under the scheme of the Act, 2011 or the Rules made thereunder. Though, under the scheme of the Act, 2011 regarding cancellation of Jamabandi, power of revision is vested with the Divisional Commissioner in terms of Section 9(7) of the Act, 2011, but the present is/was not the case regarding cancellation of Jamabandi filed by either party.

Indisputably, the petitioner originally filed a case for mutation, which was allowed vide Annexure-1. The appeal filed by the respondent no.6 was also allowed by order contained in Annexure-2, which was ultimately reversed by the revisional authority i.e. the Additional Collector, Bhagalpur by his order, as contained in Annexure-3. So far the respondent Divisional Commissioner is concerned, he has not been vested with any power of hearing either revision or second revision with respect to the order of mutation passed under the provisions of Act, 2011. That being the scheme of the

Act, 2011 and that being the legal position, this Court has no option, but to set aside the impugned order dated 23.11.2013 passed in Bhagalpur Miscellaneous (Mutation) Appeal Case No. 4 of 2013-14 by the respondent Divisional Commissioner, Bhagalpur as contained in Annexure-4 to the writ petition.

In the result, the writ petition stands allowed to the extent indicated above. However, the respondent no.6, if so advised, shall be at liberty to challenge the order passed by the Additional Collector, Bhagalpur before the appropriate forum/ court, if the law so permits.

**(Birendra Prasad Verma, J)**

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