

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10792 of 2011

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Gobardhan Mishra @ Pranav Kumar Mishra son of Late Rajendra Mishra,
Village-Chausa, P.S-Buxar(M), District-Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through Circle Officer, Chausa, P.S-Buxar(M), District-Buxar.
2. Singaro Devi W/O Raghubir Mishra Village-Chausa, P.S-Buxar, District-Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Respondent No.1: Mr. M.K. Upadhyay, AC to G.P. 10

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 05-04-2016 Heard learned counsel for the petitioner and the learned AC to G.P. 10, appearing on behalf of the respondent no.1. However, none appears on behalf of the respondent no.2, though she has already entered appearance through her counsel by filing a duly executed vakalatnama, as the notice was issued to her by this Court by order dated 29.08.2011.

The petitioner is aggrieved by the order dated 28.10.2009 (Annexure-3) passed by the respondent Circle Officer, Chausa in Mutation Case No. 154 of 2009-10, whereby the aforesaid mutation case filed on behalf of the respondent no.2 has been allowed by a non-speaking and cryptic order. Therefore, according to the learned counsel for the petitioner, the impugned order, as contained in Annexure-3 is liable to be set aside and quashed on that ground alone.

The learned State counsel appearing on behalf of the respondents submits that against the order impugned, the petitioner has an alternative remedy of appeal and, therefore, it is liable to be dismissed.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the matter requires re-consideration and fresh decision by the respondent Circle Officer, Chausa, itself. While allowing the claim of mutation of the respondent no.2, the respondent Circle Officer has passed only three lines order and has issued a direction that the land in question be mutated in favour of the opposite party no. 2 on the basis of the report submitted by the local karamchari/Circle Inspector. He has neither discussed the case of the parties nor he has applied his judicial mind to the facts of the case. Such cryptic and non-speaking order cannot be sustained in law.

In above view of the matter, the impugned order dated 28.10.2009 passed in Mutation Case No. 154 of 2009-10 by the respondent Circle Officer, Chausa as contained in Annexure-3, is hereby set aside and quashed and the matter is remitted back to him with a direction to decide the aforesaid mutation case afresh, but before passing any final order, opportunity of hearing must be given to all concerned including respondent no.2.

The writ petition stands allowed to the extent indicated, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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