

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9214 of 2011

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Dulari Devi W/O Ramlal Singh, R/O Vill.- Bhagwanbigha, P.S.- Daudnagar, Distt.- Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad
3. The Additional Collector, Aurangabad
4. The Deputy Collector, Land Reforms, Daudanagar, Distt.- Aurangabad
5. The Circle Officer, Daudnagar Distt.- Aurangabad
6. Baijnath Singh S/O Ram Lagan Singh, R/O Vill.- Sansa Tpla, Marmali, P.S.- Daudnagar, Distt.- Aurangabad
7. Kameshwar Singh
8. Sahdeo Singh S/O Ram Lagan Singh,
9. Saryu Singh, all sons of Ram Lagan Singh, R/O Vill.- Sansa Tpla, Marmali, P.S.- Daudnagar, Distt.- Aurangabad
10. Sonapati Kuer Widow Of Late Sundar Singh, R/O Vill.- Sansa Tpla, Marmali, P.S.- Daudnagar, Distt.- Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Singh, Adv.
Mr. Sushil Kumar Ray, Adv.
For the Respondent Nos.1 to 5: Mr. Ramadhar Singh, G.P. 25.
For the Respondent No. 10 : Mr. Mukesh Kr. Jha, Adv.
Mr. Ashok Kr. No.6, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 29-08-2016

Heard the parties.

2. The matter at 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.

3. It is common case of the parties that the lands in question were originally belonging to one Sundar Singh son of late Dhanpat Singh. The petitioner claims to be donee of the lands in question by virtue of deed of gift dated 10.3.1988, as contained in Annexure-1 to the writ petition. The respondent no. 10 claims to be

widow of aforesaid Sundar Singh, the doner of the present petitioner, whereas the respondent nos. 6 to 9 claim to be nephews of the aforesaid Sundar Singh.

4. The petitioner is aggrieved by the order dated 16.10.2007 passed in Mutation Revision Case No. 22 of 2005 by the respondent District Collector, Aurangabad, as contained in Annexure-9 to the writ petition, whereby the aforesaid mutation revision filed on behalf of the respondent no. 10, besides others, has been allowed and the recommendation made by the respondent Anchal Adhikari for cancellation of mutation in favour of the petitioner has been accepted. However, liberty has been granted to the petitioner to approach the civil court of competent jurisdiction for grant of appropriate relief(s) with respect to the lands in question on the basis of the deed of gift executed by the aforesaid Sundar Singh. The petitioner is also aggrieved by the consequential order, as contained in Annexure-10, whereby direction has been issued for issuance of rent receipts in favour of the private respondents on the basis of order passed by the respondent District Collector.

5. The learned counsel appearing on behalf of the petitioner and the learned G.P. 25 appearing on behalf of the respondent nos. 1 to 5 as also the learned counsel appearing on behalf of the private respondents have argued the matter at great length by referring to the averments made in the writ petition as also in their respective counter-affidavits. However, after hearing the parties and on consideration of the materials available on the record, this Court is of the opinion that unless and until the right, title and possession of the parties are declared by the civil court of competent jurisdiction with respect to the lands in question, the question of mutation or creation of Jamabandi or cancellation of Jamabandi cannot be effectively decided

by the revenue authorities. Admittedly, the lands in question were belonging to late Sundar Singh. The petitioner claims to have acquired her right, title and possession over the lands in question on the basis of the deed of gift, as contained in Annexure-1 to the writ petition, whereas the respondent nos. 6 to 10 are claiming their right, title and possession on the ground that they are the heirs and legal representatives of the original owner Sundar Singh.

6. The learned counsel, appearing on behalf of the petitioner submits that the respondent no.10 was not legally wedded wife of late Sundar Singh; therefore, she cannot claim her right, title and possession over the lands in question, which is being contested by the learned counsel appearing on behalf of the private respondents. According to him, the respondent no.10 is the legally wedded wife of aforesaid Sundar Singh and respondent nos. 6 to 9 are their nephews/co-sharers.

7. In above view of the matter, the present writ petition is disposed of with a liberty to the aggrieved party to approach the civil court of competent jurisdiction for getting his/ her/ their right, title and possession declared over the lands in question, and once such declaration is made, a fresh order of mutation shall be passed in favour of succeeding party by the competent revenue authority, after following the procedures prescribed in law.

8. It is clarified that if such a civil suit is brought by either party within a period of three months from today with a certified copy of the present order, after impleading all the necessary parties including the contesting parties of the present proceeding, then the same shall be decided on its own merits on the basis of the evidence/materials produced by them, but without being prejudiced/ influenced by any finding recorded by the revenue authorities either in favour of

the petitioner or in favour of the private respondent nos. 6 to 10 in the impugned orders.

9. This is further clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question before the competent civil court.

10. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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