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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19217 of 2013

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Mrs. Shamim Ara Daughter of Mohd. Yasin, Wife of Sri Md. Nasim Resident of Narkeldenga, K.B. Ist Lane, Police Station- Narkeldenga, Kolkata-11, Present Address- Bagpato, Diwan Mohalla, Police Station- Khajekala Patna City, District Patna

.... Petitioner/s

Versus

1. The Patna Municipal Corporation, through the Municipal Commissioner, Patna
2. The Municipal Commissioner, Patna Municipal Corporation, Patna
3. The Executive Officer, Patna City Anchal, Patna Municipal Corporation, Patna
4. Shafi Ahmad Son of Late Mohammad Yasin, Resident of Bagpato Diwan Mohalla, Police Station- Khajekala, Patna City, District- Patna

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Mahesh Narayan Parbat, Sr. Adv.
Mr. Shailendra Kumar Singh, Adv.
For the Respondent No.1 to 3: Mr. Sanjay Prakash Verma, Adv.
For the Respondent No. 4 : Mr. Sadat Ali Khan, Adv.
Md. Abu Haider, Adv.
Md. Abu Shajor, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 11-07-2016 Heard the parties.

The matter at issue is the mutation of the lands in question, fully detailed in paragraph-4 and 6 of the writ petition. The dispute is between the sister and the full brother. The petitioner happens to be the sister of the respondent no. 4.

By the impugned order dated 29.01.2013 (Annexure-6) passed by the Executive Officer, Patna City, the application of the petitioner for restoring the earlier order of mutation in her favour has been rejected and the order of mutation in favour of the respondent no.4 with respect to the land in question has been affirmed.

In view of the nature of dispute between the parties involving the question of right, title and possession over the

property in question, this Court is of the opinion that such dispute can be effectively decided only by a civil court of competent jurisdiction after recording evidence of the parties in accordance with law.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to approach the civil court of competent jurisdiction for grant of appropriate relief(s) with respect to the lands/ properties in question.

It is clarified that if an appropriate civil suit is brought by the petitioner before the civil court of competent jurisdiction within a period of three months from today after impleading all the necessary parties including the respondent no.4, then the same shall be decided on its own merit on the basis of evidence/ materials produced by the parties, but without being prejudiced by the present order, whereby this Court has refused to interfere with the impugned order, and further without being prejudiced or influenced by any finding recorded in the orders as contained in Annexure-4 and 6 either in favour of the writ petitioner or in favour of the respondent no. 4 with respect to the lands in question by the Executive Officer, Patna City.

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

(Birendra Prasad Verma, J)

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