

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1738 of 2014

With

Interlocutory Application No.4327 of 2016

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1. Kripa Narayan Singh
 2. Prem Narayan Singh
 3. Manoj Kumar Singh
 4. Sanjay Kumar Singh
 5. Ajay Kumar Singh

All Sons of Late Kamla Prasad Singh, Resident Of Village - Ganjari, P.S.
Jalsa, District - Varanasi (U.P.)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Collector, Kaimur at Bhabua
3. The Land Reforms Deputy Collector, Mohania, Kaimur
4. Anchal Adhikari, Durgawati, Kaimur
5. Incharge Circle Inspector Durgawati, Kaimur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. T.N.Maitin, Sr.Adv.
Mr.Binod Kumar Yadav, Adv.
For the Respondent/s : Mr.Amish Kumar, AC to AAG-14
For the Intervenor : Mr.Maruth Nath Roy, Adv.
Mr. Sanjay, Adv.
Mr.Parasmani, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

4 16-05-2016

Heard the learned senior counsel appearing on behalf of the petitioners and the learned AC to AAG-14 appearing on behalf of the respondents as also the learned counsel appearing on behalf of the intervenor Santosh Kumar Singh @ Chhedi, who has filed I.A. No.4327 of 2016 for being impleaded him as party respondent in the present proceeding.

Initially, the petitioners filed the present writ petition challenging the validity and correctness of the notices dated 7.10.2013 issued by the respondent D.C.L.R., Mohania in Mutation Appeal Case No.82 of 2013-14, as contained in Annexure-5/A series, but, subsequently, they filed I.A.No.840 of 2014 stating therein that the aforesaid Mutation Appeal Case No.82 of 2013-14 has already been allowed by an order dated

19.12.2013. Therefore, they sought permission of this Court to assail the validity and correctness of the aforesaid final order dated 19.12.2013, which was brought on the record as Annexure-6 to the aforesaid I.A.No.840 of 2014. By an order dated 15.05.2014, the aforesaid I.A.No.840 of 2014 was allowed by a co-ordinate Bench of this Court (Coram: Navaniti Prasad Singh, J.).

In above view of the matter, now, the petitioners are essentially aggrieved by the aforesaid final order dated 19.12.2013 passed in Mutation Appeal Case No.82 of 2013-14 by the respondent D.C.L.R., Mohania, as contained in Annexure-6, whereby the aforesaid mutation appeal filed by the In-charge Circle Inspector, Durgawati has been allowed and the orders dated 18.04.2005, 25.11.2008 and 29.11.2012 passed in Mutation Case Nos.01/05-06, 466/08-09 and 1376/2012-13 respectively have been set aside and reversed.

The learned senior counsel appearing on behalf of the petitioners submits that originally one Kamla Prasad Singh, the father of the petitioners, filed Mutation Case No.01 of 2005-06 before the respondent Circle Officer, Durgawati, which was finally allowed by an order dated 15.04.2005, as contained in Annexure-1, and the lands in question was directed to be mutated in his name in the revenue record. After death of aforesaid Kamla Prasad Singh, the petitioners filed fresh Mutation Case No.466 of 2008-09 with respect to the lands in question, which was also allowed by the respondent Anchal Adhikari, Durgawati by an order dated 25.11.2008, as contained in Annexure-1/A. It is contended that the intervenor herein namely, Santosh Kumar Singh @ Chhedi, being aggrieved by the aforesaid order, filed Mutation Appeal Case No.20 of 2009-10, which was finally dismissed by the respondent D.C.L.R., Mohania by an order dated 30.03.2010, as contained in Annexure-3. Thereafter, aforesaid Santosh Kumar Singh @ Chhedi, being still aggrieved by the

aforesaid appellate order, filed Mutation Revision Case No.19 of 2010-11/69 of 2011-12, which was finally dismissed by the Additional Collector, Kaimur (Bhabhua) by an order dated 24.03.2012 (Annexure-4). It is the case of the petitioners that, after the aforesaid revisional order, aforesaid Santosh Kumar Singh @ Chhedi (intervenor herein) did not challenge those orders before any higher forum or court and allowed those orders to attain their finality.

Learned senior counsel appearing on behalf of the petitioners highlights that once the orders of mutation regarding lands in question have attained their finality, then certainly the in-charge Circle Inspector, Durgawati, having absolutely no concern with the lands in question, was not legally entitled to file Mutation Appeal Case No.82 of 2013-14 before the respondent D.C.L.R., Mohania, yet it has finally been allowed by the impugned order dated 19.12.2013 (Annexure-6). It is submitted that, admittedly, the lands in question do not belong to the State of Bihar, and the in-charge Circle Inspector, Durgawati, not being at all concerned with the lands in question, was not entitled to file such mutation appeal before the respondent D.C.L.R., Mohania, particularly when the appellate authority and the revisional authority had already affirmed the orders of mutation passed by the respondent Anchal Adhikari, Durgawati in favour of the petitioners. According to the learned senior counsel, the impugned order dated 19.12.2013 (Annexure-6) is patently bad in law and is fit to be set aside by this Court.

This matter was heard-in-part earlier on 02.05.2016 and learned State counsel was called upon to demonstrate from the materials as to whether the lands in question belong to the State of Bihar. The learned State counsel has not brought any fresh material on the record, but by refereeing to the averments made in the counter affidavit filed on behalf of the respondent nos. 2 to 5

submitted that the lands in question was originally belonging to one Raghunath Singh, who died issueless, but during his lifetime, he had donated the lands in question to a temple. According to him, the petitioners have no valid right and title over the lands in question; therefore, the respondent D.C.L.R., Mohania has rightly passed the impugned order setting aside the order of mutation passed by the Anchal Adhikari, Durgawati.

I.A. No.4327 of 2016 has been filed today itself by aforesaid Santosh Kumar Singh @ Chhedi. It is contended by the learned counsel appearing on behalf of the aforesaid intervenor that the lands in question came in possession of the intervenor after death of aforesaid Raghunath Singh by virtue of a Will executed by him in favour of the intervenor. However, it has, nowhere, been stated that the alleged Will has ever been probated. He has also not disputed the fact that the intervenor had filed mutation appeal and mutation revision against the order of mutation passed by the Anchal Adhikari, Durgawati, but appeal and revision both were dismissed vide orders as contained in Annexure-3 and 4 respectively.

From the facts, as noticed above, it is apparent that dispute of right, title and possession was going on between the petitioners at one side and aforesaid Santosh Kumar Singh @ Chhedi at the other side, but the claim of mutation raised on behalf of the aforesaid intervenor with respect to the lands in question was rejected by all the three revenue authorities and that of the petitioners was allowed. So far the mutation appeal filed by the in-charge Circle Inspector, Durgawati is concerned, admittedly, the lands in question do not belong to the State of Bihar; hence, the in-charge Circle Inspector, Durgawati had no locus standi to file such a mutation appeal before the respondent D.C.L.R., Mohania.

In the aforesaid indisputable factual matrices, this Court is left with no option, but to set aside the impugned order

dated 19.12.2013 passed in Mutation Appeal No.82 of 2013-14 by the respondent D.C.L.R., Mohania, as contained in Annexure-6. Accordingly, the writ petition stands allowed to the extent indicated above. I.A.No.4327 of 2016 stands disposed of.

However, it is clarified that, if any aggrieved party including the respondents herein or the intervenor, besides others, if any, approaches the Civil Court of competent jurisdiction, after impleading all the necessary parties including the petitioners, for getting his/her/their right and title declared over the lands in question or for grant of any other appropriate relief(s), then such civil suit shall be decided on its own merits on the basis of the materials/evidence produced by the parties, but without being prejudiced or influenced by any finding recorded by the revenue authorities in the orders passed with respect to the mutation of lands in question, which were subject matter of consideration in the present proceeding.

(Birendra Prasad Verma, J)

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