

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18714 of 2010

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1. Xavier Teachers Training Institute, Digha Ghat, Patna, through its President Joy Karayampuram SJ S/O Late Abraham Karayampuram, R/O St. Xavier'S, West Gandhi Maidan Road, P.S.- Gandhi Maidan, Distt.- Patna
 2. Xavier's Patna Association through its President Joy Karayampuram SJ S/O Late Abraham Karayampuram, R/O St. Xavier's, West Gandhi Maidan Road, P.S.- Gandhi Maidan, Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar through Secretary Department of Revenue and Land Reforms, Government of Bihar, Patna
2. Secretary Department of Revenue and Land Reforms, Government of Bihar, Patna
3. Collector, Patna, Distt.- Patna
4. Deputy Collector for Land Reforms, Patna Sadar, Patna
5. Circle Officer, Patna Sadar Block, Patna
6. Halka Karmachari, Digha Area, Patna Sadar Block
7. Upendra Kumar Singh S/O Laxmi Rai, resident of Adarsh Gali, Bata Ganj, P.S.- Digha, Distt.- Patna-80018
8. Chitaranjan Singh S/O Late Ram Iqbal Singh (expunged and substituted by his following heirs and legal representatives vide order dated 17.03.2011:),
8(A). Mostt. Name not known wife of late Chitrnanjan Singh
8(B) Pramod Singh son of Late Chitaranjanj Singh,all R/O Makhdumpur Digha, at Present Residing At Fathepur Pipariya, P.S.- Gaurichak, Distt.- Patna
9. Indrajeet Singh S/O Late Ram Iqbal Singh R/O Makhdumpur Digha, At Present Residing At Fathepur Pipariya, P.S.- Gaurichak, Distt.- Patna
10. Ranjit Singh S/O Late Ram Iqbal Singh R/O Makhdumpur Digha, At Present Residing At Fathepur Pipariya, P.S.- Gaurichak, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.M.JOSEPH

For the Respondent/s : Mr. Mani Madhukar, AC to G.A. 4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 20-05-2016

Heard the parties.

The petitioners are aggrieved by the order dated 07.01.2010 passed in Mutation Case No. 535/1 of 2009-10 by the respondent Circle Officer, Patna Sadar, as contained in Annexure-8, whereby claim of mutation raised on behalf of the private respondents with

respect to the lands in question has been allowed. The petitioners are also aggrieved by the correction slip, as contained in Annexure-9, which has been issued in the light of the impugned order dated 07.01.2010.

Apparently, the impugned order of mutation was passed under the provisions of The Bihar Tenant's Holdings (Maintenance of Records) Act, 1973 (In short 'Act, 1973'). Now, the aforesaid Act, 1973 has been repealed by virtue of the provisions contained in Section 23(1) of the Bihar Land Mutation Act, 2011 (In short 'Act, 2011'). By virtue of the provisions contained in Section 23(2) of the Act, 2011 the impugned order passed by the respondent Circle Officer, Patna Sadar would be deemed to have been passed under the provisions of the Act, 2011. The order of mutation passed by the respondent Circle Officer, Patna Sadar with respect to a parcel of land under the provisions of the Act, 2011 is appealable before the prescribed appellate authority under Section 07 of the Act, 2011. Against the order passed by the appellate authority, aggrieved person would have further remedy of revision under Section 8 of the Act, 2011. Thereafter, aggrieved person will have further remedy before the learned Bihar Land Tribunal, Patna in view of the provisions contained in Section 9 of The Bihar Land Tribunal Act, 2009.

It is well settled principles of law that the issues of facts must be raised and conclusively decided by the statutory authorities at the first instance and only thereafter, powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

The learned counsel appearing on behalf of the petitioners, while assailing the validity and correctness of the impugned order dated 07.01.2010 (Annexure-8) as also the consequential order, as

contained in Annexure-9, has raised various issues of facts, which are yet to be conclusively decided by the statutory authorities.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioners to approach the appellate authority prescribed under Section 7 of the Act, 2011 for grant of appropriate reliefs with respect to the lands in question as also the orders impugned.

If such an appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioners for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bonafide legal advice, the present writ petition was filed on 15.11.2010 and that remained pending before this Court till date.

It is also clarified that if an appropriate appeal is filed on behalf of the petitioners before the prescribed appellate authority within the time indicated above, after impleading all the necessary parties including the private respondents herein, besides others, if any, then the parties shall be at liberty to raise all the issues of facts and law before the prescribed appellate authority, which may be available to them with respect to the lands in question as also with respect to the orders impugned.

(Birendra Prasad Verma, J)

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