

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11734 of 2005

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Raghunath Prasad Singh @ Ragho Singh, Son of Late Sukhdeo Singh, resident
of village- Barkagaon, Tola-Mathiya, P.O.-Kolhwara, P.S.-Kanti (Karja),
District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar.
2. District Magistrate / Collector of the District Muzaffarpur.
3. Additional Collector, Muzaffarpur.
4. Circle Officer, Kanti Block, Muzaffarpur.
5. The Bihar Bhoodan Yagya Committee, Kadam Kuan, Patna-3 through
Mukhya Sanchalak.
6. Secretary, Bhoodan Yagya Committee, Muzaffarpur, Club Road, P.S.-
Mithanpura, P.O. Ramana, District-Muzaffarpur.
7. Chief Secretary, Bihar Bhoodan Yagya Committee, Jagat Narayan Road,
Patna.
8. Ram Pukar Roy.
9. Shatrughan Roy.
10. Ram Adhar Roy
11. Sheonandan Roy @ Sidan Roy.

All son of Batahu Roy, resident of village-Nargijivnath, P.S.-
Saraiya, P.O.-Kolhwara, Via-Jaitpur, District- Muzaffarpur.

12. Ram Adhar Singh, Son of late Pradeep Singh, resident of village-Gahilo,
P.S.-Saraiya, District-Muzaffarpur.

.... Respondents

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Appearance:

For the Petitioner : Mr. Krishna Kant Singh, adv.
For the Respondent Nos. 8 to 11: Mr. Nachiketa Jha, adv.
For the Respondent No.12 : Mr. Arun Kumar, adv.
For the State : Mr. Ajay Kumar Sharma, A.C. to PAAG.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 09-08-2016

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the private respondents.

2. In this case, the petitioner is challenging the order dated 17.03.2005, passed by the Additional Collector, Muzaffarpur, in Mutation Revision No.39/1999-2000, whereby and whereunder the order dated 13.03.1999 passed by the D.C.L.R. West, Muzaffarpur in Mutation Appeal No.19/1996-97 has been set aside and the order dated 19.07.1996 passed by the Circle Officer, Kanti, Muzaffarpur has been upheld.

3. The present matter relates to the land of C.S. Plot No.1060, measuring .25 acres, plot Nos.1070 and 1071, measuring .74 acres, which was standing in the name of Anurag Singh, Deepa Rai and Dhupa Rai and after their death, one share of the land was inherited by the father of the petitioner namely Shukhdeo Singh and one Share was inherited by Ram Awatar Singh and Ramraj Singh under R.S. Khata No.216, bearing R.S. Plot No.2327 and 2346.

4. One Rama Adhar Singh, son of Pradeep Singh, without having any right, title and possession donated the land to Bhoodan Yagya Committee and Bhoodan Yagya Committee, in



course of time allotted the land to private respondent Nos. 8 to 11. The petitioner approached the Bhoodan Yagya Committee, narrated the entire fact, but the Bhoodan Yagya Committee vide order dated 30.06.1993 refused to pass any order on the ground that the donation which was given has been confirmed. The said order was challenged before this Court in C.W.J.C. No.10543 of 1993 by the mother of the petitioner namely Most. Mayadevi and this Court vide order dated 03.01.1997 disposed of the writ petition with liberty, without giving any opinion on merit, to approach the appellate forum. Accordingly, the petitioner filed an appeal before the Collector, which was registered as Case No.90 of 1996-97. The Collector, vide order dated 10.06.1998 remanded back the matter to the D.C.L.R. and gave direction to find out who is the real owner of the property in question. In the meantime, the private respondents, who have been allotted the land by the Bhoodan Yagya Committee, approached the Circle Officer for mutation, which was registered as Case No.6 of 1996-97. In the said case, notice was issued by the Office of the Circle Officer to the petitioner that he may file his objection by 29.07.1996. But the case was placed on 19.07.1996, the Circle Officer directed for mutation of the land in the name of the private respondents on the ground that no objection was received from any person.



5. The present petitioner being aggrieved by the order passed by the Circle Officer approached the D.C.L.R. in appeal, which was registered as Appeal No.19 of 1996-97. The D.C.L.R. dismissed the appeal of the petitioner vide order dated 15.03.1997. Against that order the petitioner again approached the Additional Collector, in Revision, which was registered as Revision Case No. 29 of 1997-98. The Additional Collector, vide order dated 10.6.1998 remanded back the matter to the D.C.L.R. The learned counsel for the State has rightly pointed out that D.C.L.R. only confined his consideration with regard to the mutation Case No.19 of 1996-97 and there is no whisper with respect to the case relating to the Bhoodan Yagya Committee. After the remand, the D.C.L.R. considered the case of the petitioner and allowed the appeal of the petitioner. Against that order the respondents filed Revision before the Collector, which was registered as Case No.39 of 1999-2000 and the Collector allowed the Revision of the private respondents and against that the petitioner has filed the present application.

6. Though the petitioner has not confined his argument with respect to the mutation, but also argued the point with respect to the Bhoodan Committee proceeding, but the present writ petition



is confined only to the Mutation matter and having no connection with the proceeding of Bhoodan Committee as the D.C.L.R. has confined his consideration with regard to the mutation Case and so much so that the Collector has only looked into the matter of mutation case not with respect to the proceeding took place under Bhoodan Committee Act.

7. Though the learned counsel for the petitioner tired hard, argued the matter on merit, but this petition can be disposed of on short and technical ground taken by the learned counsel for the petitioner. Learned counsel for the petitioner has drawn the attention of this Court to the Notice issued from the office of the Circle Officer (Annexure-11 to this writ petition), by which the petitioner was asked to file his objection by 29.07.1996, but the Circle Officer has passed the order before the date mentioned in the notice for filling the objection.

8. Though the learned counsel for the State has submitted that Halka Karmachari has submitted its report, in which he has stated that he inspected the spot and found the possession of the private respondents, which the petitioner has seriously disputed and submitted that there is no documentary evidence available on record to indicate that the person who has given the land in

donation has a valid right, title and possession over the land and so much so that there is no iota of documentary evidence to show that the possession of the private respondents over the land in question.

9. This Court is not dealing with the issue of possession. Presently, this Court is intending to dispose of the case only on technical ground with respect to the mutation case. From a perusal of the Notice, that lead to illegality in the order, it appears that 29.07.1996 was the date fixed for next hearing and in the meantime the petitioner was directed to file his objection. But before reaching on 29.7.1996, the Circle Officer passed the order in favour of the private respondents on 19.07.1996.

10. Learned counsel for the petitioner submits that he has taken this point before the D.C.L.R., who on consideration allowed his appeal, but the Collector has not dealt with matter and without any discussion, set aside the order of the D.C.L.R.

11. Having considered the rival contentions of the parties, when the procedural defect is there then in such circumstances, the order of the Circle Officer with respect to granting the mutation cannot sustain in law. Accordingly, the order dated 19.07.1996 passed by the Circle Officer, Kanti, Muzaffarpur is set aside. In a

consequence, the order dated 17.03.2005 passed by the Additional Collector, Muzaffarpur is also set aside. In such view of the matter the order of the D.C.L.R. dated 13.03.1999 has also no relevance in the matter. The matter is remanded back to the Circle Officer, Kanti, Muzaffarpur with respect to the order passed in Mutation case. It is clarified that this Court is not passing any order with respect of the proceeding with the Bhoodan matter. The petitioner is at liberty to take appropriate steps in accordance with law with respect to the proceeding took place under Bhoodan Yagna Act.

12. With the aforesaid observations and direction, this writ petition is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16/8/2016
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