

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12083 of 2010

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1. Prabhawati Devi W/O Late Prabodh Narayan Singh, R/O Vill.- Chand Parsa, P.S.- Mazaharul Haque Near Hasanpura, P.O.- Mahual Mahal, Distt.- Siwan
 2. Awadhesh Singh S/O Late Prabodh Narayan Singh, R/O Vill.- Chand Parsa, P.S.- Mazaharul Haque Near Hasanpura, P.O.- Mahual Mahal, Distt.- Siwan
 3. Malti Devi D/O Late Prabodh Narayan Singh and W/O Mohan Prasad Ojha, R/O Vill.- Chand Parsa, P.S.- Mazaharul Haque Near Hasanpura, P.O.- Mahual Mahal, Distt.- Siwan
- Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Saran Division, Chapra
3. The Additional Collector, Siwan, Distt.- Siwan
4. The Deputy Collector, Land Reforms, Siwan, Distt.- Siwan
5. The Circle Officer, Daronda, Distt.- Siwan
6. Smt. Bageshwari Devi W/O Sri Om Prakash Singh, D/O Late Thakur Prasad Sahi R/O Vill.- Senduar, P.S.- Ekma, Distt.- Siwan at present residing at Vill.- Begaura, P.S.- Doranda, Distt.- Siwan

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.11720 of 2010

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Awadhesh Singh S/O Late Prabodh Narayan Singh, R/O Vill Chand Parsa, P.S.Mazaharul Haque Nagar, Hasanpura, P.O. Mahual Mahal, Distt-Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner Saran Division , Chapra
3. The Additional Collector Null Siwan Distt-Siwan
4. The Deputy Collector, Land Reforms Siwan, Distt-Siwan
5. The Circle Officer Daronda, Distt-Siwan
6. Smt. Bageshwari Devi W/O Sri Om Prakash Singh D/O Late Thakur Prasad, R/O Vill Senduar, P.S.Ekma, Distt-Saran at present residing at Village Begura, P.S.Doronda,Distt-Siwan

.... Respondent/s

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Appearance :

(In CWJC No.12083 of 2010)

For the Petitioner/s : Mr. Uday Bhan Singh, Advocate

For the Respondent Nos. 1 to 5 : Mr. Jainendra Kr.Sinha, AC to SC 17

(In CWJC No.11720 of 2010)

For the Petitioner/s : Mr. Uday Bhan Singh, Advocate

For the Respondent Nos. 1 to 5 : Mr. Asit Kumar Jha, AC to GP 2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 28-11-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned State counsel appearing on behalf of the State of Bihar and its functionaries in both the writ petitions. However, none appears on behalf of the private respondent no.6, in both the above writ petitions, though the notices were issued to her.

2. In both the writ petitions, subject matter of challenge is the common revisional order dated 06.11.2006 passed analogously in Mutation Revision Case No. 108 of 1994-95, Mutation Revision Case No. 101 of 1994-95 and Mutation Case No. 100 of 1994-95 by the respondent Divisional Commissioner, Saran, Chapra, as contained in Annexure-7 in both the writ petitions. Therefore, on the request of the parties, both the matters have been heard together and are being disposed of by this common order.

3. The learned counsel appearing on behalf of the petitioners submits that the impugned revisional order dated 06.11.2006 passed with respect to Mutation Revision Case No. 100 of 1994-95 by the respondent Divisional Commissioner, Saran, Chapra was the subject matter of challenge in CWJC No. 12172 of 2008, which was finally dismissed, but with certain observations and directions by order dated 05.08.2013. The operative part of the order dated 05.08.2013 passed in CWJC No. 12172 of 2008 is re-produced hereinbelow:

“After having heard the parties, this Court does not find any good ground to interfere with the findings recorded by the respondent Additional Collector, Siwan, as also the respondent Commissioner, Saran Division, Chapra. Consequently, the writ has to fail and is, accordingly, dismissed.

However, the petitioner, if so advised, may

approach the civil court of competent jurisdiction and file a civil suit for getting his right, title and possession declared over the lands under dispute. If such a civil suit is filed by the petitioner then the same shall be heard and decided strictly in accordance with law on the basis of material/evidence produced by the parties without being prejudiced or influenced by any findings recorded by the revenue authorities in the impugned mutation proceeding.”

4. The learned counsel appearing on behalf of the petitioners submits that these two writ petitions may also be disposed of in the same terms.

5. The learned counsel appearing on behalf of the State of Bihar and its functionaries in both the cases do not raise any objection to the prayer made by the learned counsel for the petitioners in both the cases.

6. In above view of the matter and by following the order dated 05.08.2013 passed in CWJC No. 12172 of 2008, both the writ petitions are dismissed, but liberty is granted to the petitioners of both the writ petitions to approach the civil court of competent jurisdiction for getting their right, title and possession declared over the lands under dispute. If such a civil suit is filed, after impleading all the necessary parties including the respondent no.6 herein, the same shall be decided strictly in accordance with law on the basis of the materials/evidences produced by the parties, but without being prejudiced or influenced by any findings recorded by the revenue authorities in the impugned mutation proceedings.

(Birendra Prasad Verma, J)

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