

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2883 of 2014

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1. Sabita Gupta, W/O Kedar Nath Gupta, R/O Village - Hatisarganj, P.S. Hajipur, Distt. - Vaishali
2. Arvind Kumar, S/O Late Shiv Dayal Thakur, R/O Village - Keshopur, P.S. Lalganj, District - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Land Reforms and Revenue Department, Bihar, Patna
3. The District Magistrate, Vaishali at Hajipur
4. The Deputy Collector, Land Reforms, Lalganj, Vaishali
5. The Circle Officer, Lalganj, Vaishali
6. Ratnesh Kumar Tiwari, S/O Kailash Tiwari, R/O Agarpur Batraul, P.S. Lalganj, District - Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent nos.1to5 : Mr. Mani Madhukar, AC to GA-4
For the Respondent no.6 : Mr.Satyabir Bharti, Adv.
Mr.Alok Chandra, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 18-05-2016

Heard the parties.

The petitioners are aggrieved by the order dated 27.07.2009 passed in Mutation Case No.458 of 2009-10 by the respondent Anchal Adhikari, Lalganj, as contained in Annexure-2, whereby the claim of mutation raised on behalf of the private respondent no.6 with respect to the lands in question has been allowed.

Learned counsel appearing on behalf of the petitioners submits that, though they are also claiming their right, title and possession over the lands in question, but, without giving any opportunity of hearing to them, final order of mutation was passed by the respondent Anchal Adhikari, Lalganj. Therefore, it

is pleaded that the impugned order has been passed in violation of the rules of natural justice and cannot be sustained in law.

Learned counsel appearing on behalf of the respondent no.6, on the other hand, has contested the matter and has submitted that the respondent no.6 is the original owner of the lands in question and the petitioner is having no right, title and possession over the same in view of the fact that the sale deed executed in favour of the petitioners was earlier cancelled. He further submits that the impugned order is appealable; therefore, on that ground, the writ petition is fit to be dismissed.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and fresh decisions; as apparently, after going through the order-sheet of Mutation Case No.458 of 2009-10, this Court finds that the procedures prescribed under the law for mutation of the lands in question have not been followed. Besides that, there appears to be some other infirmities in the final order dated 27.07.2009 (Annexure-2).

For the reasons recorded above, the impugned order dated 27.07.2009 passed in Mutation Case No.458 of 2009-10 by the respondent Anchal Adhikari, Lalganj vide Annexure-2 is hereby set aside and quashed, and the matter is remitted back to the respondent Anchal Adhikari, Lalganj with a direction to decide the claim of mutation of the parties over the lands in question strictly in accordance with the procedures prescribed under The Bihar Land Mutation Act, 2011 (in short 'Act, 2011') and the Rules made thereunder. However, before passing any final order, an opportunity of hearing must be given to all concerned including

the petitioners and the respondent no.6, besides others, if any.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law with respect to the lands in question, which may be available to them, before the respondent Anchal Adhikari, Lalganj.

In order to expedite the matter, the petitioners as also the respondent no.6 are hereby directed to appear before the Anchal Adhikari, Lalganj, Vaishali within a period of one month from today with a certified copy of the present order, whereafter the respondent Anchal Adhikari, Lalganj shall proceed to decide the matter afresh strictly under the provisions of the Act, 2011 and the Rules made thereunder at an early date preferably within a period of three months from the date of appearance of the parties in the manner indicated above.

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

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