

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2482 of 2006

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1. Subhash Chandra Gupta
2. Umesh Chandra Gupta
3. Binod Kumar Gupta
All sons of late Sachidanand Gupta
4. Manorma Devi
5. Madhuri Devi
6. Saroj Devi
7. Meera Devi
8. Neelam Devi
All daughters of late Sachidanand Gupta
All resident of mohalla-Purani Gurhatti, Sahebganj, P.O.-Chapra, P.S.-
Chapra Town, District-Saran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Collector Land Reforms, Sadar Chapra, District-Saran.
3. Circle Officer, Sadar Chapra, P.O.&P.S.-Chapra, District-Saran.
4. Smt. Ram Dulari Devi, wife of Ram Adhar Prasad.
5. Most. Sundari Devi, wife of late Ram Swaroop Rai.
6. Smt. Sushila Devi, wife of Chhathilal Prasad
7. Most.Kanti Devi, wife of late Raj Kumar Prasad
All resident of Purwari Rouza, P.O.-Telpa, P.S.-Chapra Town, District-
Saran.
8. Savitri Devi, daughter of Late Makeshwar Prasad, wife of Govind
Prasad Gupta, resident of village-Birbanna, P.O.-Sangil Baita, P.S.-
Antichak, District-Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent nos.1to3 : Mr. Ajay Kumar Sharma, AC to PAAG-I

For the Respondent nos.4, 6&7 : Mr. Rajendra Narayan, Sr.Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 01-08-2016

The petitioners, 8 in numbers, are aggrieved by the order dated 28.09.2005 passed in Mutation Appeal No.2 of 2005-06 by the respondent D.C.L.R., Sadar Chapra, as contained in Annexure-1 to the writ petition, whereby the aforesaid mutation appeal filed on behalf of the petitioners was dismissed and the order passed by the Anchal

Adhikari, Sadar Chapra was affirmed.

Despite repeated calls, none appears on behalf of the petitioners in support of the present writ petition. However, I have heard the learned State counsel appearing on behalf of the respondent nos.1 to 3 as also the learned Senior counsel appearing on behalf of the respondent nos.4, 6 & 7.

The learned Senior counsel appearing on behalf of the respondent nos. 4, 6 & 7, at the threshold, has submitted that the impugned order is revisable in terms of Section 16 of The Bihar Tenant's Holdings (Maintenance of Records) Act, 1973 (in short 'Act, 1973'). It is further submitted that, by recording concurrent findings of facts by the original authority as also the appellate authority, the claim of mutation raised on behalf of the petitioners with respect to the lands in question, fully detailed in paragraph 5 of the writ petition, has been rejected. According to him, apart from the merit, on the ground of availability of alternative remedy of revision to the petitioners, the present writ petition is fit to be dismissed.

After having heard the learned counsel appearing on behalf of the respondents and on going through the materials available on the record, this Court finds that the original authority i.e. the Anchal Adhikari, Sadar Chapra allowed the claim of mutation raised on behalf of the private respondents. However, the appeal preferred on behalf of the petitioners against that order has been rejected by the impugned appellate order. Therefore, both the original authority as also the appellate authority by recording concurrent findings of facts rejected the claim raised on behalf of the petitioners with respect to the lands in question. This Court further finds that the Act, 1973 has now 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 Section 23(2) of the Act, 2011, notwithstanding such repeal, anything done or any action taken under the provisions of the Act, 1973 shall be deemed to have been done or taken under the provisions of the Act, 2011. Under the provisions of the Act, 2011 also there is a provision of revision against the order passed by the appellate authority. Apparently, the petitioners have not exhausted the alternative remedy of revision available to them, though they have raised several disputed questions of facts in support of their claim with respect to the lands in question.

For the reasons recorded above, the present writ petition is dismissed. However, a liberty is granted to the petitioners to approach the prescribed revisional authority for grant of appropriate relief(s) with respect to the lands in question as also the order(s) impugned.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.08.2016
Transmission Date	NA