

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16535 of 2008

=====

1. Awadhesh Dubey son of Late Jagat Narayan Dubey
2. Bachchi Devi wife of Awadhesh Dubey
Both are resident of Village Jhakhra, Police Station Nautan, District West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, West Champaran
3. The Land Reforms Deputy Collector, Bettiah
4. The Anchal Adhikari, Nautan
5. Gayatri Devi wife of Late Jagat Narayan Dubey, resident of Village Jhakhra, Police Station Nautan, District West Champaran

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Advocate

For the Respondent Nos. 1 to 4 : Mr. A. Ujjwal, SC 4

Mr.Upendra Pratap Singh, AC to SC 4

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 08-08-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned AC to SC 4, appearing on behalf of the respondent nos. 1 to 4. However, none appears on behalf of the respondent no.5, though notice was issued to her by a Bench of this Court by order dated 14.07.2009.

2. The petitioners are aggrieved by order dated 25.07.2008 passed in R.M.Case No. 7 of 2006-07 by the respondent District Collector, West Champaran, Bettiah, as contained in Annxure-6 to the writ petition, whereby the aforesaid revision case filed on behalf of the petitioners has been dismissed purportedly on the basis of a compromise.

3. The learned counsel appearing on behalf of the petitioners submits that the claim of mutation raised on behalf of the petitioners with respect to lands in question was allowed by the respondent Anchal Adhikari, Nautan by order dated 30.03.2005



(Annexure-1) passed in Mutation Case Nos. 924 to 940 of the year 2004-05. He next submitted that the respondent no.5, being aggrieved by the aforesaid order, preferred Mutation Appeal Case No. 45 of 2005-06 before the respondent DCLR, West Champaran, Bettiah, which was finally allowed by order dated 14.02.2006 (Annexure-2) and the matter was remitted back to the respondent Anchal Adhikari, Nautan for passing a fresh order. However, the petitioners, being aggrieved by the aforesaid appellate order, preferred Mutation Revision Case No. 07 of 2006-07 before the respondent District Collector, West Champaran, Bettiah. According to the learned counsel for the petitioners, during pendency of the mutation revision case, a compromise was arrived at between the parties and accordingly, a compromise petition (Annexure-3) was filed, but subsequently, the respondent no.5 made certain interpolation in the aforesaid compromise petition. Therefore, the petitioners filed a petition (Annexure-5) before the respondent District Collector praying therein that the petition of compromise may be rejected in view of the interpolation made in the compromise petition by the respondent no.5. It is contended that without considering the aforesaid petition vide Annexure-5 filed on behalf of the petitioners, the revision application filed on their behalf has been dismissed by the District Collector, West Champaran, Bettiah by a non-speaking and cryptic order dated 25.07.2008 (Annexure-6), purportedly on the basis of compromise, which had become non-existent on that date.

4. Though, this writ petition was filed way back on 17.11.2008, but no counter affidavit has been filed till date either by the official respondents or by the private respondent no.5. As recorded above, despite issuance of notice to the respondent no.5, she has chosen not to appear in the present matter and contest the claim

raised on behalf of the petitioners.

5. Having heard the parties and taking into consideration the aforesaid factual matrices of the case, this Court is of the opinion that the matter requires reconsideration and a fresh decision by the respondent District Collector, West Champaran, Bettiah on two grounds; firstly, the impugned order dated 25.07.2008 is a completely non-speaking and cryptic order, and secondly, there is no discussion at all about the petition vide Annexure-5 filed on behalf of the petitioners, whereby the prayer was made for rejection of the earlier compromise petition.

6. For the reasons recorded above, the impugned order dated 25.07.2008 passed in R.M.Case No. 07 of 2006-07 by the District Collector, West Champaran, Bettiah as contained in Annexure-6 to this writ petition, is hereby set aside and quashed, and the matter is remitted back to the respondent District Collector, West Champaran, Bettiah with a direction to decide the aforesaid revision case filed on behalf of the petitioners afresh on merits, but before passing any final order, opportunity of hearing must be given to all concerned including the petitioners and the respondent no.5, besides others, if any.

7. 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)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.08.2016
Transmission Date	