

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19390 of 2014

With

Interlocutory Application No.1353 of 2015

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1. Smt. Geetika Wife of Dr. Amrendra Kumar Aditya, Resident of East of Bhola Talkies Ward No.-9, Under Town Samastipur, P.S.-Sub Division and District-Samastipur.
 2. Smt. Isha Singh Wife of Sri Sachida Nand, Permanent Resident of Village-Chhatauna, P.S.-Moffassil, Sub Division and District-Samastipur.
 3. Dr. Umesh Chandra Issar, Son of Late GAnga Prasad Issar, Resident of Vilage-Konail, P.S.-Dalsingsarai, District-Samastipur.
 4. Niranjana Kumar Sharma Son of Surendra Mohan Sharma, Resident of New Colony, Dharampur, P.S.-Sub-Division and District-Samastipur.
 5. Smt. Munni Devi Wife of Avanish Kumar, Resident of Village-Jagdishpur, P.S.-Pusa, Sub-Division and District-Samastipur.
 6. Prem Narayan Thakur Son of Late Kusheshwar Thakur, Permanent Resident of Village-Garuara, P.S.-Moffassil, Samastipur, Sub Division and District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Samastipur
2. The Additional Collector, Samastipur.
3. The D.C.L.R., Samastipur.
4. The Circle Officer, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. H. P. Singh, Sr. Adv.
Mr. Om Prakash Upadhyay, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 24-10-2016

Heard the learned Senior counsel appearing on behalf of the petitioners and the learned AC to SC-4 appearing on behalf of the respondents.

2. Initially, the petitioners had filed the present writ petition with a prayer for setting aside the order dated 22.10.2014 passed by the respondent District Collector, Samastipur in Mutation Revision Case No. 46 of 2014, as contained in Annexure-3, whereby the operation of the final order dated 15.7.2014 passed in Mutation



Revision Case No. 93 of 2013 by the respondent Additional Collector, Samastipur, as contained in Annexure-2 to the writ petition, was stayed and notices were issued to the petitioners to appear in the matter with their show cause, so that a fresh final order is passed by him. During the pendency of the present writ petition, a fresh final order has been passed by the District Collector, Samastipur in aforesaid Case No. 46 of 2014 setting aside the final revisional order dated 15.7.2014 passed in Mutation Revision Case No. 93 of 2014 by the respondent Additional Collector, Samastipur; and, therefore, the petitioners have filed I.A. No. 1353 of 2015 seeking permission to challenge the validity and correctness of the aforesaid final order dated 22.11.2014 passed by the District Collector, Samastipur, which has been brought on the record as Annexure-4 to the aforesaid I.A. No. 1353 of 2015. In the given facts of the case, the prayer for amendment is allowed.

3. The learned Senior counsel appearing on behalf of the petitioners submits that the petitioners purchased the lands in question through different registered sale deeds, which have been brought on the record as Annexure-1 series to the writ petition and details of the lands have been given in paragraphs 5 and 6 of the writ petition. He further submits that in view of the aforesaid purchases made by the petitioners, besides others, they filed a petition before the respondent Circle Officer, Samastipur for mutation of their names with respect to the lands in question, which gave rise to Mutation Case No. 129 of 2010-11, but the prayer for mutation made on behalf of the petitioners, besides others, was finally rejected by the order dated 24.1.2011, as contained in Annexure-5 to the supplementary affidavit filed on behalf of the petitioners. The petitioners, besides others, being aggrieved by the aforesaid original order 24.1.2011 (Annexure-5),



preferred Mutation Appeal No. 210 of 2011 before the respondent D.C.L.R., Samastipur, but that was also finally rejected by the order dated 26.6.2013, as contained in Annexure-6 to the aforesaid supplementary affidavit. Thereafter, the petitioners, being aggrieved by the aforesaid orders, preferred Mutation Revision No. 93 of 2013 under Section 8 of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011'), which was finally heard and allowed by the respondent Additional Collector, Samastipur vide order dated 15.7.2014 (Annexure-2) and a direction was issued to the Anchal Adhikari, Samastipur to create Jamabandi in the name of the petitioners and issue rent receipts in their favour. It is contended that the aforesaid order dated 15.7.2014 passed in Mutation Revision Case No. 93 of 2013 has attained its finality as neither the State of Bihar nor any other interested persons have assailed its validity and correctness either before the learned Bihar Land Tribunal, Patna or before this Court, but the respondent District Collector, on the basis of some complaints filed by some persons, initiated fresh Mutation Revision Case No. 46 of 2014 and by his original order dated 22.10.2014 stayed the operation of the order passed by the respondent Additional Collector, Samastipur, and now, by the impugned final order dated 22.11.2014 (Annexure-4 to the I.A. No. 1353 of 2015), he has set aside the order passed by the Additional Collector, Samastipur in Mutation Revision Case No. 93 of 2013. It is pleaded by the learned Senior counsel that under the scheme of the Act, 2011, there is no power of review vested in the District Collector. The power of revision is vested concurrently in the District Collector and the Additional Collector of the District in view of the provisions of Section 8 of the Act, 2011. The concurrent jurisdiction of revision can be exercised either by the District Collector or by the Additional

Collector of the district, but once the final order is passed by the revisional authority, then power of review is not vested in either of the authority. Therefore, according to him, the fresh final order dated 22.11.2014 passed by the District Collector, Samastipur, as contained in Annexure-4 to the I.A. 1353 of 2015 is wholly illegal, without jurisdiction and is fit to be set aside by this Court.

4. The learned AC to SC-4 appearing on behalf of the respondents, though has argued the matter at some length, but has not been able to show that the power of review is vested under the provisions of the Act, 2011 in the District Collector, particularly when the Additional Collector, Samastipur had exercised his revisional powers and had allowed the revision application filed on behalf of the petitioners. However, he submitted that even if this Court is inclined to set aside the impugned fresh order dated 22.11.2014(Annexure-4) passed by the District Collector, Samastipur, a liberty may be granted to the State authorities to challenge the final order dated 5.7.2014 (Annexure-2) passed by the respondent Additional Collector, Samastipur before the higher forum/ authority or civil court of competent jurisdiction, as the case may be.

5. After having heard the parties and taking into consideration the entire factual matrices, as noticed above, as also the provisions of the Act, 2011, this Court is of the considered opinion that the impugned order dated 22.11.2014 passed in Case No. 46 of 2014 by the District Collector, Samastipur, as contained in Annexure-4, cannot be sustained in law, as indisputably, the respondent Additional Collector, Samastipur had allowed the revision application filed on behalf of the petitioners with respect to the lands in question by his final order dated 15.7.2014 passed in Mutation Revision Case No. 93 of 2013, as contained in Annexure-2 to the writ petition as also

in the background that under the scheme of the Act, 2011, power of review is not vested in the District Collector.

6. Accordingly, the impugned order dated 22.11.2014 passed by the District Collector, Samastipur, as contained in Annexure-4 to the I.A. No. 1353 of 2015 is hereby set aside and quashed. However, quashing of the impugned order shall not come in the way of the State authorities or any other concerned person(s) to assail the validity and correctness of the order dated 15.7.2014 passed in Mutation Revision Case No. 93 of 2013 by the respondent Additional Collector, Samatipur, as contained in annexure-2 to the writ petition in an appropriate proceeding before any higher authority/ forum/court including the learned Bihar Land Tribunal, Patna in accordance with law.

7. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. I.A. No. 1353 of 2015 stands accordingly, disposed of. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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