

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.557 of 2007

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Punit Mistry, son of late Ramdhari Mistry, resident of village-Mahathu,
P.S.-Jamhore, District-Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad.
3. The Additional Collector, Aurangabad.
4. The Deputy Collector Land Reforms, Daudnagar, Aurangabad
5. The Circle Officer, Obra Circle, Aurangabad.
6. Kameshwar Mistry, son of late Ramdhani Mistry, resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad (expunged vide order dated 28.01.2014 and substituted by his following heirs and legal representatives:-)
 - (i) Surji Kuer, wife of late Kameshwar Mistry
 - (ii) Ramakant Mistry, son of late Kameshwar Mistry
Both resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad
 - (iii) Ramti Devi, daughter of late Kameshwar Mistry, wife of Ram Lakhan Mistry, C/o Lalchand Mistry, resident of village+P.O.+P.S.-Navinagar, District-Aurangabad.
7. Tapeshwary Mistry, son of late Ramdhani Mistry, resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad.
8. Bigan Mistry, son of late Ramdeni Mistry, resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad.
9. Jai Govind Mistry, son of late Ramdeni Mistry, resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad (expunged vide order dated 28.01.2014 and substituted by his following heirs and legal representatives:-)
 - (i) Ramjeevan Mistry @ Ramjeevan Vishwakarma, son of late Jai Govind Mistry
 - (ii) Laxman Mistry @ Laxman Vishwakarma, son of late Jai Govind Mistry
Both resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad.
10. Indradeo Mistry, son of late Pritam Mistry, resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad (expunged vide order dated 28.01.2014 and substituted by his following heirs and legal representatives:-)
 - (i) Most. Budhani Devi, wife of late Indradeo Mistry
 - (ii) Vidyasagar Vishwakarma, son of late Indradeo Mistry
 - (iii) Shiv Sagar Vishwakarma, son of late Indradeo Mistry
 - (iv) Prem Sagar Vishwakarma, son of late Indradeo Mistry
All resident of village-Mahathu, P.S.-Jamhore, District-Aurangabad.
 - (v) Srimati Devi, daughter of late Indradeo Mistry, wife of Sri Ramji Vishwakarma and presently residing at village&P.O.-Amba, P.S.-Amba, District-Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Adv.
Mr. S.S.Thakur, Adv.

For the Respondent nos.1to5: Mr. Shashi Shekhar Pd. Sinha, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

25-07-2016

Heard learned counsel for the petitioner as also the learned State counsel appearing on behalf of the respondent nos.1 to 5. However, none appears on behalf of the private respondent nos.6 to 10, though some of them have already entered appearance through their counsel.

The matter at issue is the claim of mutation raised on behalf of the petitioner with respect to the lands in question, fully detailed in paragraph 4 of the writ petition. The claim of mutation raised on behalf of the petitioner was originally rejected by an order dated 07.02.2003 passed in Mutation Case No.469 of 2002-03 by the respondent Anchal Adhikari, Obra, as contained in Annexure-10 to the writ petition. The Mutation Appeal No.5 of 2002-03 filed on behalf of the petitioner has been dismissed by a reasoned and speaking order dated 29.04.2004 passed by the respondent D.C.L.R., Daudnagar, Aurangabad (Annexure-11). The Mutation Revision Case No.115 of 2004-05 filed on behalf of the petitioner has been dismissed by the impugned revisional order dated 14.01.2005 (Annexure-12).

From the facts noticed above, it is apparent that the claim of mutation raised on behalf of the petitioner with respect to the lands in question has been rejected by all the three statutory authorities.

In above view of the matter, this Court does not feel persuaded to interfere with the orders impugned. However, the petitioner, if so advised, shall be at liberty to approach the Civil Court of competent jurisdiction for getting his right, title and possession declared over the lands in question.

If an appropriate civil suit is filed on behalf of the petitioner within a period of three months from today, after impleading all the necessary parties including the private respondents as also with a certified copy of the present order, then the same shall be decided on its own merits on the basis of the evidence/materials produced by them, but without being prejudiced/influenced by any finding recorded by the revenue authorities in the impugned mutation proceeding.

With the aforesaid observations and directions, the writ petition stands dismissed.

(Birendra Prasad Verma, J)

Arvind/-

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