

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14558 of 2007

Mithlesh Sharma @ Mithilesh Sharma, son of Nonu Sharma, resident of village-
Lakhsambha, P.S.-Makhdumpur, District-Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, Jehanabad at and District-Jehanabad
3. The Deputy Collector, Land Reforms, Jehanabad, at and District-Jehanabad.
4. The Anchal Adhikari, Makhdumpur, District-Jehanabad.
5. Ramki Devi, wife of Sri Awdhesh Prasad
6. Pawan Kumar
7. Vinod Kumar
8. Pankaj Kumar

All sons of Shri Awadhesh Prasad

Sl. No.5 to 8 are resident of Lakhsambha, P.S.-Makhdumpur, District-Jehanabad.

.... Respondent/s

Appearance :

For the Petitioner/s

: Mr. Yogendra Mishra, Adv.

Mr. Ramesh Kumary Chaudhary, Adv.

For the Respondent nos.1to4

: Mr. Sanjay Kumar Ojha, AC to GP-7

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 08-08-2016

Heard learned counsel for the petitioner as also learned
AC to GP-7 appearing on behalf of the respondent nos.1 to 4.
However, none appears on behalf of the private respondent nos.5 to 8,
though notices were issued to them by a Bench of this Court by an
order dated 18.04.2012.

The matter at issue is the claim of the petitioner for
mutation of his name 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
with respect to the lands in question has been rejected by the
respondent Anchal Adhikari, Makhdumpur by an order dated
18.07.2001 (Annexure-3). The appeal preferred on behalf of the
petitioner against the order passed by the original authority has been



dismissed by the respondent D.C.L.R., Jehanabad by an order dated 28.09.2002 (Annexure-4) by recording a finding of fact that the lands in question is already recorded in the name of the opposite party therein and the claim of the petitioner is based on disputed and doubtful document, which cannot be examined by the revenue authorities, rather it can be examined by a Civil Court of competent jurisdiction. The petitioner, still being aggrieved by the aforesaid order passed by the appellate authority, preferred Mutation Revision Case No.16 of 2002-03 before the respondent District Collector, Jehanabad, which has been dismissed by the impugned revisional order dated 18.08.2006 (Annexure-5) and the order passed by the appellate authority has been affirmed.

From the facts noticed above, it is apparent that, by recording concurrent findings of facts, the claim of mutation raised on behalf of the petitioner with respect to the lands in question on the basis of a deed gift in his favour has been rejected by all the three statutory authorities, and that of private respondent nos.5 to 8 has been allowed with respect to the lands in question on the basis of the sale deeds in their favour.

It is well settled that the order of mutation passed by the revenue authorities neither creates nor takes away right and title of the parties with respect to the lands claimed by them. It only decides the question as to who is entitled to pay the rent to the State government on the basis of claim of possession over the lands claimed by them. The claim of mutation raised on behalf of the petitioner on the basis of a deed of gift allegedly made in his favour has been rejected by revenue authorities.

It is true that the revenue authorities are not required to decide the right and title of the parties over the lands claimed by them

while deciding the claim of mutation, but, at the same time, the claim of bonafide possession is required to be examined by the revenue authorities. The claim raised by an encroacher or stranger for mutation of his name with respect to a parcel of land cannot be allowed by the revenue authorities.

In above view of the matter, particularly in view of the concurrent findings of facts recorded against the petitioner by all the three statutory authorities, this Court does not feel persuaded to interfere with the impugned order dated 18.08.2006 (Annexure-5) passed in Mutation Revision Case No.16 of 2002-03 by the respondent District Collector, Jehanabad affirming the orders passed by the appellate authority as also the original authority, as contained in Annexure-4 and 3 respectively, rejecting the claim of mutation of his name raised by the petitioner regarding the lands in question.

Consequently, the writ petition is dismissed, but, it shall not come in the way of the petitioner to approach the Civil Court of competent jurisdiction for grant of appropriate relief(s) with respect to the lands in question. No costs.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.08.2016
Transmission Date	N/A