

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18323 of 2012

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Rameshwar Jha, Son Of Late Kati Jha, Resident Of Village - Dharhara, P.O. And
P.S. Dharhara, District - Munger

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Munger
3. The Deputy Collector, Land Reforms, Sadar Munger
4. The Anchaladhikari, Dharhara, District - Munger
5. Ram Bhajan Sah, Son Of Sri Mangarh, Resident Of Mangarh P.O. Mangarh, P.S.
Dharhara, District - Munger

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raghib Ahsan, Sr.Adv. Mr.Sanjay Sinha, Adv.
For the Respondent nos.1to4	:	Mr. Subhash Chandra Yadav, GP-15 Mr.Shyama Kant Singh, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 01-08-2016

Heard the parties.

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 petition for mutation filed on behalf of the petitioner, giving rise to Mutation Case No.707 of 2008-09, has been rejected by the Anchal Adhikari, Dharhara, Munger by the order dated 20.03.2009/04.04.2009 (Annexure-4) with a liberty to the petitioner to approach the Civil Court for getting his right and title declared. The petitioner, being aggrieved by the aforesaid order, filed the Mutation Appeal Case No. 1 of 2009-10 before the respondent D.C.L.R., Sadar Munger, which was finally rejected by a reasoned and speaking order dated 14.07.2010 (Annexure-5) and affirmed the order passed by the

Anchal Adhikari. The petitioner, being still aggrieved by the aforesaid original order as also the appellate order, filed Mutation Revision Case No.6 of 2010-11, which has finally been rejected by the respondent District Collector, Munger by his impugned order dated 22.06.2012 (Annexure-6).

The learned counsel appearing on behalf of the petitioner, by raising certain issues of facts, though has argued the matter at some length in support of his case with respect to the lands in question, but there are two stumbling block before the petitioner in the present proceeding; firstly, against the impugned revisional order dated 22.06.2012 (Annexure-6) passed in Mutation Revision Case No.6 of 2010-11 by the respondent District Collector, Munger, the petitioner has an alternative and efficacious remedy before the learned Bihar Land Tribunal, Patna in view of the provisions contained in Section 9 of The Bihar Land Tribunal Act, 2009 (in short 'Act, 2009), which provides that, against any final order passed by the appropriate authorities under the Acts/Manuals mentioned below, the Tribunal will have jurisdiction to entertain the application, if no other forum of appeal or revision against such order is provided. The Bihar Land Mutation Act, 2011 is one of the Acts mentioned in Section 9 of the Act, 2009. The second stumbling block before the petitioner is that his claim has been rejected by all the three statutory authorities by recording concurrent findings of facts against him with respect to the lands in question. Both sides are claiming their right and title over the lands in question on the basis of their respective documents. In that view of the matter, the evidence of the parties is required to be recorded with respect to the lands in question, which cannot be appropriately gone into in the present proceeding filed under Article 226 of the Constitution of India.

In above view of the matter, this Court is of the considered opinion that the petitioner has an alternative and efficacious remedy before the learned Bihar Land Tribunal, Patna.

It is well settled that the issues of facts must be raised and conclusively decided by the statutory authorities, only thereafter the powers of judicial review under Article 226 of the Constitution of India may be invoked.

For the reasons recorded above, the present writ petition has to fail and is, accordingly, dismissed. However, the petitioner, if so advised, shall be at liberty to approach the appropriate forum/court with respect to the lands in question for grant of appropriate relief.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	NA
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