

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11628 of 2013

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Umesh Prasad Mall @ Kuwar Umesh Pratap Mall, S/O Late Raja
Awadhesh Prasad Mall, R/O Village Majhauri Raj, P.S. Salempur, District
Deoria (U.P.)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Siwan
3. The Additional Collector, Siwan
4. The S.D.O. Siwan
5. Sri Devendra Prasad, The Circle Officer, Nautan, Distt. Siwan
6. The Post Master, Nautan (Nautan Post Office), District-Siwan.
7. Harsh Nath Chaudhary, son of Mahavir Chaudhary, resident of village-Surwaniya, P.S.-Mirganj, District-Gopalganj (The Post Master, Nautan Post Office, District-Siwan).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Prasad, Adv.
Mr. Ajay Mishra, Adv.

For the Respondent no.6 : Mr. Jitendra Prasad Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 05-09-2016 Heard the learned counsel for the petitioner as also the learned counsel appearing on behalf of the respondent no.6. However, none appears on behalf of the other respondents including the respondent nos.1 to 4, though the name of the learned State counsel is appearing in the daily cause list.

The petitioner has filed the present writ petition seeking a direction to the respondent no.5 to initiate a mutation case on the basis of the application filed by the petitioner and pass an appropriate final order.

The learned counsel appearing on behalf of the petitioner submits that, for mutation of the lands in question, fully detailed in paragraph 4 of the writ petition, the petitioner had filed his application before the respondent Anchal Adhikari, Nautan,

but no case was registered under the provisions of The Bihar Land Mutation Act, 2011 (in short Act, 2011). Therefore, the petitioner has filed the present writ petition for appropriate relief(s).

Though the learned State counsel has not appeared, when the matter has been taken up for consideration, but this Court finds that a counter affidavit has been filed on behalf of the respondent nos.2 to 5 wherein it has been stated in paragraph no.5 that on the basis of a petition filed on behalf of the petitioner, Circle Officer, Nautan initiated Misc.Case No.2 of 2013-14. It has further been asserted that on the basis of the report submitted by the Halka Karamchari, it was found that the lands in question have been mutated in the name of one Raja Awadesh Pratap Mal. The petitioner claiming himself to be the heir of aforesaid Raja Awadhesh Pratap Mal filed a petition for opening of Jamabandi with respect to the lands in question in his name. However, despite the order/direction issued by the respondent Circle Officer, Nautan, genealogy of the family was not submitted by the petitioner. It has also been asserted in the aforesaid counter affidavit that, despite several opportunities granted to the petitioner, he did not appear to substantiate his claim for mutation of the lands in question. Therefore, by an order dated 21.05.2013, the petition of mutation filed by the petitioner has been rejected. The entire order-sheet of the aforesaid Case No.2 of 2013-14 has been brought on record as Annexure-A to the aforesaid counter affidavit.

From the facts noticed above, it is apparent that the entire claims raised on behalf of the petitioner for mutation of his lands in question are based on disputed questions of facts. Furthermore, if the claim of mutation raised on behalf of the

petitioner has been rejected by an order dated 21.05.2013 (Annexure-A to the counter affidavit), then against that order petitioner has an alternative remedy of appeal and revision before the prescribed appellate authority and the revisional authority under the provisions of the Act, 2011, but that has not been exhausted by the petitioner.

In above view of the matter, the present writ petition is dismissed.

However, the petitioner, if so advised, may approach the appropriate authority for grant of an appropriate relief with respect to the lands in question.

(Birendra Prasad Verma, J)

Arvind/-

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