

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11108 of 2005

With
Interlocutory Application No. 4824 of 2010
And
Interlocutory Application No. 3771 of 2013

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Sri Jagdish Prasad Das, son of late Chandi Pd. Das, a resident of Village-Latta, P.S. Poriya, District- Dumka, through Attorney Chandra Kant Das, son of Shri Radha Krishna Das, resident of village- Jiwachhpur, P.S. Banmankhi, District-Purnea (General Power of Attorney).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnea.
3. The Land Reforms Deputy Collector, Purnea, now Banmankhi, District Purnea.
4. The Circle Officer, Banmankhi, Purnea.
5. Sri Ramji Mahto, son of Sri Rupam Mahto.
6. Sri Shivji Mahto
7. Sri Ram Ikbali Mahto, both sons of late Mahabir Mahto.
8. Sri Bindeshwari Mahto, son of Jai Ram Mahto.
9. Sri Jagdish Mahto, son of late Chulahi Mahto.
10. Sri Jagdish Mahto, son of late Lachhman Mahto.
11. Sri Surya Narain Yadav, son of late Jogan Yadav.
12. Sri Ramji Yadav, son of late Bona Yadav.

Respondent Nos. 5 to 12 all are resident of village- Rampur Tilak, P.S. Jankinagar, District Purnea.

13. The Chairman of the Bhoodan Yagna Committee, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. R.C.Thakur

Mr. Kamal Kishor Singh

For the Respondent No. 1 to 4 : Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

15 19-01-2016

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of order dated 11.06.2004 passed in Revenue Revision Case No. 66 of 1995 by the respondent District Collector, Purnea, as contained in Annexure-4, whereby aforesaid revision application regarding mutation of the lands in question, fully detailed in the impugned revisional order, filed on behalf of the

respondent no. 5 Ramjee Mahto, has been allowed and the order dated 01.11.1995 passed by the respondent D.C.L.R. Sadar, Purnea, as contained in Annexure-3, has been set aside and the claim of the petitioner regarding the lands in question has been rejected.

During the pendency of the writ petition, sole petitioner Sri Jagdish Prasad Das is said to have passed away on 02.07.2008. I.A. No. 3771 of 2013 has been filed purportedly on behalf of the heirs and legal representatives of the deceased sole petitioner praying therein for their substitution in place of the original writ petitioner.

A counter-affidavit has been filed on behalf of the respondent no. 5, 7 and 9 in the aforesaid I.A. No. 3771 of 2013 disputing the claims of the aforesaid applicants that they are the heirs and legal representatives of the deceased sole petitioner. According to the averments made in the aforesaid counter-affidavit, the deceased petitioner Sri Jagdish Prasad Das died issueless.

I.A. No. 4827 of 2010 has been filed for restraining the private respondent no. 5 to 12 from interfering with the possession of the petitioner over the lands in question. Admittedly, the sole petitioner has now, passed away during the pendency of the writ petition. Therefore, the aforesaid I.A. No. 4824 of 2010 has become infructuous and is, accordingly, dismissed.

However, so far the claim of mutation regarding the lands in question, now raised by the proposed heirs of the deceased sole petitioner is concerned, that is based on several disputed question of facts in view of the findings recorded by the respondent District Collector, in the impugned revisional order as

also in view of the averments made in the counter-affidavit filed on behalf of the respondent no. 5, 7 and 9.

In above view of the matter, this Court is of the considered opinion that unless and until the right and title of the parties are decided by the competent civil court on the basis of evidence/ materials produced by them, the question of mutation cannot be effectively decided. Hence, without going into the merits of the claims of the parties regarding mutation of the lands in question, the present writ petition is disposed of with a liberty to the proposed heirs of deceased sole petitioner to approach the civil court of competent jurisdiction for getting their right, title and possession declared over the lands in question by producing the evidence/ materials in support of their claims.

If such a civil suit is filed within a period of three months from today, after impleading all the necessary parties including the respondents herein, then the same shall be decided on its own merits by referring to the evidence/ materials produced by the parties, but without being prejudiced by the rejection of the present writ petition.

It is further clarified that before the civil court, the parties shall be at liberty to raise all the issues of fact and law, which may be available to them, with respect to the lands in question.

The writ petition stands finally disposed of with the observations and directions made above.

I.A. No. 3771 of 2013 also stands accordingly disposed of.

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(Birendra Prasad Verma, J)