

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14995 of 2010

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1. Sona Jhari Devi wife of Late Kapildeo Singh, resident of Village Karauti, P.S.Paliganj, Distt-Patna
 2. Lachiya Devi wife of Chandeshwar Singh, resident of Village Abgida Tola Sukhi Bigha, P.S. Rampur, Distt-Arwal

.... Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate-cum-Collector, Arwal
3. D.C.L.R., Arwal
4. Circle Officer, Arwal
5. Tetari Devi wife of Raj Keshwar Singh
6. Parvati Devi wife of Ram Jatan Singh
7. Lakho Devi wife of Ishwar Dayal Singh
8. Fuleshwari Devi wife of Ram Ashray Singh
9. Fulla Devi wife of Late Hari Nandan Singh
10. Ram Jatan Singh son of Late Basudeo Singh
11. Ishwar Dayal Singh son of Late Basudeo Singh
12. Ram Ashray Singh son of Late Basudeo Singh
13. Etwari Devi wife of Devi Dayal Singh
14. Manju Devi wife of Mukesh Yadav
15. Shyam Sundri Devi wife of Bipi Yadav
16. Satyander Yadav son of Ramadhar Singh
17. Rajesh Yadav (Minor) son of Satyendra Yadav, Minor under Guardianship of his Father, well wisher and next friend of Satyendar Yadav
Respondent nos. 5 to 17 are residents of Village Abgila Tola Sukhibigha, P.S.Rampur Chouram, District Arwal
18. Budhan Yadav son of Late Lakhan Yadav, R/O Vill Kansopur, P.S.Arwal, Distt-Arwal

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
For the Respondent Nos. 1 to 4 : Mr. Rajeev Shekhar, AC to GA 13
For the Respondent Nos. 5 to 18 (except Respondent no.8)
: Mr.Jagdish Prasad, Advocate
Mr.Ashok Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 22-08-2016

Heard the parties.

2. The matters at issue are the orders passed by the revenue authorities regarding claim of mutation raised on behalf of the petitioners at one side and the private respondent nos. 5 to 18 at the

other side.

3. The petitioners are aggrieved by the order dated 11.07.2009 passed in Mutation Revision Case No. 10 of 2008-09 by the respondent District Collector, Arwal, as contained in Annexure-6 to the writ petition, whereby aforesaid mutation revision case filed by respondent nos. 5 and others has been allowed, and order dated 10.07.2008 (Annexure-5) passed in Mutation Appeal Case No. 2 of 2005 to 13 of 2005 has been set aside and reversed, and that of respondent Anchal Adhikari, Arwal, as contained in Annexure-3 to this writ petition, has been affirmed.

4. The learned counsel appearing on behalf of the petitioners submits that the lands in question was admittedly belonging to one Keshwar Yadav and the petitioners are his daughters from his second wife Shivrati Devi. According to him, from the first wife Dhanpatia Devi, aforesaid Keshwar Yadav had no issue. Hence, the petitioners are the only surviving heirs of aforesaid Keshwar Yadav and therefore, by order dated 10.07.2008 (Annexure-5) passed by the respondent DCLR, Arwal, their claim of mutation with respect to the lands in question was allowed, but the respondent District Collector, Arwal without considering the entire factual aspects of the matter has set aside and reversed the aforesaid order dated 10.07.2008 (Annexure-5) passed by the appellate authority. It is also pleaded that the private respondents purchased the lands in question from one Sonapati Devi, who is not the daughter of aforesaid Keshwar Yadav. Therefore, they have not acquired any right and title over the lands in question. Hence, their claims could not have been considered by the aforesaid two revenue authorities.

5. The learned counsel appearing on behalf of the private respondents submits that they are purchasers from one Sonapati Devi,

who is niece of aforesaid Keshwar Yadav. According to him, Keshwar Yadav died issueless and thereafter aforesaid Sonapati Devi acquired her right, title and possession over the lands in question. Hence, the claim raised on behalf of the private respondents was allowed by the respondent Anchal Adhikari, Arwal vide order contained in Annexure-3, which has been affirmed by the impugned revisional order, as contained in Annexure- 6.

6. After having heard the learned counsel for the parties and taking into consideration the submissions raised on their behalf this Court is of the opinion that the entire matters require re-consideration and a fresh decision right from the very beginning. Though, it is submitted on behalf of the private respondents that Keshwar Yadav died issueless and, therefore, Sonapati Devi, his niece, acquired her right, title and possession over the lands in question, but no such finding has been recorded either by the respondent Anchal Adhikari or the District Collector, Arwal, yet the claim of mutation raised on their behalf has been allowed. It is apparent that, while allowing the claim of mutation of the private respondents, all the issues raised herein on behalf of the parties have not been properly considered and decided by the revenue authorities. Hence, the orders impugned cannot be sustained and the matter requires re-consideration and a fresh decision.

7. For the reasons recorded above, the order dated 28.08.2004 (Annexure-3) passed in Mutation Case No. 10 of 2004-05/52 of 2004-05 by the respondent Anchal Adhikari, Arwal, the order dated 10.07.2008 (Annexure-5) passed in Mutation Appeal Case Nos. 2 of 2005 to 13 of 2005 by the respondent DCLR, Arwal and the order dated 11.07.2009 (Annexure-6) passed in Mutation Revision Case No. 10 of 2008-09 by the respondent District Collector, Arwal

are hereby set aside and quashed, and the matter is remitted back to the respondent Anchal Adhikari, Arwal with a direction to decide the claim of mutation raised on behalf of the parties afresh in accordance with law with respect to lands in question.

8. It is clarified that, while considering the claim of the parties afresh for mutation of their names with respect to lands in question, if the respondent Anchal Adhikari comes to a conclusion that there is serious dispute of right and title between the parties over the lands in question, which cannot be effectively decided by the revenue authorities, then he shall withhold from passing any final order for mutation of their names with respect to the lands in question, and shall relegate the parties to the civil court of competent jurisdiction for getting their right and title declared over the lands in question, and only after declaration made by the civil court of competent jurisdiction, the claim of mutation shall be considered afresh in accordance with law.

9. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2016
Transmission Date	