

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11085 of 2010

With
Interlocutory Application No. 4136 of 2016

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1. Brigadiar Krishna Murari Pd. Singh S/O Late Jagarnath Singh, R/O Ankuri, Ps.Paliganj, Distt-Patna
 2. Ram Peyari Devi W/O Late Jagarnath Pd. Singh, R/O Ankuri, Ps.Paliganj, Distt-Patna
 3. Ramjanki Devi W/O Late Dwarika Pd. Singh, R/O Ankuri, Ps.Paliganj, Distt-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector Patna, Distt-Patna
3. The Addl. Collector Patna, Distt-Patna
4. The Deputy Collector Land Reforms Danapur, Distt-Patna
5. The Circle Officer Paliganj Circle, Distt-Patna
6. Arjun Singh S/O Late Brijnandan Singh R/O Mahamadpur, P.S.Paliganj, Distt-Patna
7. Bhim Singh S/O Late Brijnandan Singh R/O Mahamadpur, P.S.Paliganj, Distt-Patna
8. Surajdeo Singh S/O Late Brijnandan Singh, R/O Mahamadpur, P.S.Paliganj, Distt-Patna
9. Mahadeo Singh S/O Indrajit Singh, R/O Mahamadpur, P.S.Paliganj, Distt-Patna
10. Mahendra Singh S/O Indrajit Singh, R/O Mahamadpur, P.S.Paliganj, Distt-Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav

For the Respondent No.1 to 5 : Mr. Ajay Kumar, AC to PAAG

For the Respondent No. 6 to 10: Mr. Pankaj Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT.

4 12-05-2016

Re.: Interlocutory Application No. 4136 of 2016

The instant interlocutory application has been filed purportedly on behalf of the surviving petitioner no.1 stating therein that during the pendency of the main writ petition, petitioner no.2- Ram Peyari Devi and the petitioner no.3- Ram Janki Devi died on 11.09.2015 and 14.02.2016 respectively leaving behind their heirs and legal representatives, fully detailed

in paragraph-4 and 6 respectively of the instant interlocutory application. It has further been stated that one of the sons of the deceased petitioner no.2 is already on the record as petitioner no.1.

The learned counsel appearing on behalf of the petitioners submits that all the proposed heirs of deceased petitioner no.2 and 3 are major and they all have entered appearance through their lawyer by filing their duly executed Vakalatnama and it may be noted that one of the sons of the deceased petitioner no.2 is already on the record as petitioner no.1.

The learned State counsel appearing on behalf of the respondent no.1 to 5 and the learned counsel appearing on behalf of the respondent no. 6 to 10 do not raise any objection to the prayer for substitution made in the present interlocutory application.

In above view of the matter, the prayer for substitution is allowed. Let the name of the deceased petitioner no.2 and 3 be expunged from the array of the parties of the main writ petition and be substituted by their heirs and legal representatives, fully detailed in paragraph-4 and 6 respectively of the present interlocutory application. It shall also be noted that one of the sons of the deceased petitioner no.2 is already on the record as petitioner no.1.

With the aforesaid observations and directions, the present Interlocutory Application stands finally disposed of.

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On the request of the parties, main writ petition has been taken up for consideration on merits.

Heard the parties.

The petitioners are aggrieved by the order dated

19.09.2009 passed in Mutation Revision Case No. 286 of 1991-92 by the respondent Additional Collector, Patna, as contained in Annexure-4, whereby aforesaid mutation revision case filed on behalf of the father of the present petitioner no.1 and the husband of the deceased petitioner no.2, besides others, has been dismissed for want of prosecution.

The learned counsel appearing on behalf of the petitioners submits that, in fact, the petitioners were prosecuting the aforesaid mutation revision case punctually, but on account of their absence only on three dates, the revision application was dismissed. He further submits that the respondent D.C.L.R., Danapur had also passed the order dated 23.12.1988 (Annexure-3) without issuing any notice to the petitioners or their ancestors and the Jamabandi running in their names was cancelled only on the recommendation made by the respondent Circle Officer, Paliganj.

The learned State counsel appearing on behalf of the respondent no. 1 to 5 and the learned counsel appearing on behalf of the respondent no. 6 to 10, though have opposed the prayer made in the present writ petition, but have not been able to dispute the fact that the order passed by the respondent D.C.L.R., Danapur is a non-speaking and cryptic one and was passed without giving opportunity of hearing to the parties.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the entire matter requires reconsideration and fresh decision under the provisions of The Bihar Land Mutation Act, 2011 (in short 'the Act, 2011'). The learned counsel appearing on behalf of the petitioners and the learned counsel appearing on behalf of the respondent no.6 to 10 as also the learned State counsel appearing

on behalf of the respondent no.1 to 5 are also unanimous in their submissions that the matter may be remitted back to the original authority i.e. the respondent Circle Officer, Paliganj for deciding the claim of the parties afresh strictly in accordance with law under the provisions of the Act, 2011.

In above view of the matter, particularly in view of the unanimity amongst the learned counsel appearing on behalf of the parties that the matter may be remanded to the original authority for deciding the claim of mutation of the parties with respect to the lands in question, the impugned order dated 19.09.2009 passed in Mutation Revision Case No. 286 of 1991-92 by the respondent Additional Collector, Patna, as contained in Annexure-4, as also the order dated 23.12.1988 passed by the respondent D.C.L.R., Danapur, as contained in Annexure-3, and the order of recommendation dated 29.07.1988 passed by the respondent Circle Officer, Paliganj, as contained in Annexure-2, are hereby set aside and quashed, and the entire matter is remitted back to the respondent Circle Officer, Paliganj in the district of Patna with a direction to decide the claim of mutation of the parties with respect to the lands in question, fully detailed in paragraph-4 and 5 of the writ petition afresh strictly in accordance with law under the provisions of the Act, 2011.

It is clarified that before the respondent Circle Officer, Paliganj, the parties shall be at liberty to raise all the issues of facts and law with respect to the land in question, which may be available to them.

In order to expedite the matter, the petitioners as also the respondent no. 6 to 10 are directed to appear before the respondent Circle Officer, Paliganj with a certified copy of the present order

within a period of one month from today, whereafter he shall fix a firm date for proceeding and deciding the claim of mutation of the parties strictly in accordance with law under the provisions of the Act, 2011 and the rules made thereunder.

The writ petition stands allowed to the extent indicated but with the observations and directions made above. No costs.

(Birendra Prasad Verma, J)

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