

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1941 of 2012

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Kamal Kishore Prasad Singh, S/O Late Bindeshwari Prasad Singh, R/O Village-
Chintamani Chak, P.S.-Mokama, District- Patna

.... Appellant/s

Versus

1. Ram Sumiran Singh S/O Shri Ram Chandra Singh R/O Village- Bihat Tola
Ibrahimpur, P.S.-Barauni, District-Begusarai
2. The State of Bihar
3. The Charge Officer of the District Settlement Officer, Baldeo Bhawan,
Punaichak, Patna
4. The Assistant Settlement Officer, Camp at Mokama, at present Baldeo Bhawan,
Punaichak, Patna
5. Brij Mohan Prasad Singh, S/O Late Bindeshwari Pd. Singh, R/O Village-
Chintamani Chak, P.S.- Mokama, District- Patna
6. Bharat Bhushan Prasad Singh, S/O Late Bindeshwari Pd. Singh, R/O Village-
Chintamani Chak, P.S.- Mokama, District- Patna
7. Nawal Kishore Pd. Singh, S/O Late Bindeshwari Pd. Singh, R/O Village-
Chintamani Chak, P.S.- Mokama, District- Patna
8. Jitendra Singh, S/O Late Sohan Pd. Singh, R/O Village- Chintamani Chak, P.S.-
Mokama, District- Patna
9. Sudarshan Kumar @ Laddu Singh, S/O Late Sohan Pd. Singh, R/O Village-
Chintamani Chak, P.S.- Mokama, District- Patna

.... Respondent/s

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Appearance :

For the Appellant	:	Mr. Murari Narain Choudhary, Advocate Mr. Mohit Shrivastava, Advocate Mr. Naresh Kumar Sinha, Advocate
For Respondent No. 1	:	Mr. Ram Sumiran Singh, Advocate
For the State	:	Mr. Manoj Kr. Ambastha, GP-14 Mr. Subodh Kumar, AC to GP-14

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-04-2016

Having heard learned counsel for the appellant
and learned counsel for the contesting respondent, who is
appearing in person and was the writ petitioner as also learned

counsel for the State, we are of the view that in view of the subsequent events there is material change in the facts and circumstances.

It appears that the writ petitioner, who is the contesting respondent no. 1 in this appeal, had given money to one Bindeshwari Prasad Singh upon different mortgage deeds. On failure to redeem the mortgage, he had instituted a title mortgage suit for foreclosure. The suit having been decreed and payments not having been made the properties were attached and sold by the Court. Ram Sumiran Singh, the writ petitioner-respondent no. 1 in this appeal, then purchased the same in auction and got delivery of possession through the Court. This was sometime in 1981. In the meantime, agricultural land ceiling proceedings were taken up against the family of Bindeshwari Prasad Singh and these lands were also included therein. They were declared surplus and notification under Section 15 of the Ceiling Act as surplus land was also issued. Those proceedings were challenged by Ram Sumiran Singh. The order has been set aside and the District Collector has been ordered to reopen the proceedings under Section 45-B of the Ceiling Act to take note of those judicial steps. In the meantime, Ram Sumiran Singh made an application before the revenue authorities i.e. the Settlement Officer for



mutation of his name in the revenue register in terms of Section 103-A of the Bihar Tenancy Act. That was refused by the Settlement Officer on the ground that so long as the proceedings are not revised under Section 45-B of the Ceiling Act, it would not be proper for him to pass orders admitting the mutation of names. That is the order that was challenged in this Court and the learned Single Judge allowed the writ petition directing the Settlement Officer to make necessary entries of mutation in the revenue records noticing the facts aforesaid.

Now, on behalf of the appellant, who was aggrieved by the judgment and order of the learned Single Judge, an affidavit has been filed bringing on record the fact that First Appeal Nos. 39 of 1976 and 771 of 1976 against the judgment and decree passed in mortgage suit have been filed before this Court, which have been allowed and the decree has been cancelled. Consequently, the auction sale has been nullified. Thus, the substratum of the writ petitioner Ram Sumiran Singh, the respondent no. 1 in this appeal, vanishes. His entire claim based on the decree in the mortgage suit and the auction purchase all has vanished. It stands obliterated, so does his right. In view of this, there is nothing to be pursued in the writ petition. Thus, in view of this changed facts, this appeal has to be allowed and the writ

petition has to be dismissed as infructuous.

This appeal is, accordingly, allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	AFR
CAV DATE	
Uploading Date	04.05.2016
Transmission Date	