

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11232 of 2006

Mathura Sao, son of late Balchand Saw, resident of mohalla-New Millat Colony More, Khagaul Road, P.O.& P.S.-Phulwarisharif, District-Patna (expunged vide order dated 25.3.2008 and substituted by his following heirs and legal representatives)

1. Vishwanath Gupta @ Vishwanath Kumar, son of late Mathura Sao
2. Shakuntala Devi, wife of late Mathura Sao

Both resident of mohalla-New Millat Colony More, Khagaul Road, P.O.& P.S.-Phulwarisharif, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue, Old Secretariat, Patna.
2. The District Magistrate, Patna.
3. The Circle Officer, Phulwarisharif, Patna.
4. Anand Kumar Gupta, son of late Ram Babu Gupta, resident of Sadar Bazar Choaraha, P.S.-Phulwarisharif, District-Patna (expunged vide order 14.03.2014 and substituted by his following heirs and legal representatives:-)

- (i) Manorma Devi, wife of late Anand Kumar Gupta
- (ii) Khusbu, daughter of late Anand Kumar Gupta
- (iii) Minu, daughter of late Anand Kumar Gupta

All resident of Sadar Bazar Choaraha, P.S.-Phulwarisharif, District-Patna.

5. Gurcharan Gupta, son of late Ram Babu Gupta, resident of Sadar Bazar Choaraha, P.S.-Phulwarisharif, District-Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha, Adv.
For the Respondent nos.1to3 : Mr. Pankaj Kumar, SC-12
For the respondent nos.4&5 : Mr.Ajit Kumar Ojha, Adv.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 25-07-2016

Heard the parties.

The original writ petitioner Mathura Sao, who is now dead and has been substituted by his heirs, being aggrieved by the order dated 07.06.2005 passed in Misc. Case No.5 of 2004-05 by the respondent Circle Officer, Phulwarisharif, Patna, as contained in Annexure-1, filed the present writ petition questioning its validity and correctness. By the impugned order, the prayer made on behalf of the original petitioner for mutation of the lands in question in his favour has been rejected.

The learned counsel appearing on behalf of the respondent nos.4 and 5, at the very outset, has raised the question of maintainability of the present writ petition at this stage. According to him, the impugned order is appealable and revisable before the prescribed statutory authorities. Hence, the writ petition is fit to be dismissed.

In view of the aforesaid objections, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the prescribed appellate authority for grant of appropriate relief.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

If an appropriate appeal is filed on behalf of the substituted petitioners within a period of four weeks from today before the prescribed appellate authority with a certified copy of the present order and, if it is found to have become barred by limitation and, if any petition is filed for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bonafide legal advice the present writ petition was filed on 12.09.2006 before this Court and that remained pending till date.

It goes without saying that the parties shall be at liberty to raise all the issues of facts and law before the prescribed appellate authority, which may be available to them, with respect to the lands in question.

Arvind/-

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(Birendra Prasad Verma, J)