

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10681 of 2007

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Indra Devi Nathani, wife of Ramautar Nathani, resident of mohalla-Sutapatti
Saraiyaganj, P.S., Town and District-Muzaffarpur. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Muzaffarpur.
3. Land Reforms Deputy Collector (East) Muzaffarpur.
4. Anchaladhikari, Mushahari, Anchal District-Muzaffarpur.
5. Santosh Kumar Nathani, son of late Mali Ram Nathani
6. Kaushalya Devi Nathani, widow of late Digvijay Nathani.
Both residents of mohalla-Pakkisarai Chemara Godam, P.S.-Town and District-Muzaffarpur.
7. Sheo Kumar Nathani
8. Sarvan Kumar Nathani
9. Krishna Kumar Nathani
10. Ravi Kumar Nathani
Sons of late Shankar Prasad Nathani
11. Sajjan Kumar Nathani, son of late Ramgopal Nathani.
Respondent nos.7 to 11 residents of mohalla Sutapatti P.S., Town and District-Muzaffarpur.
12. Gayatri Devi Nathani, wife of Sri Ram Bilash Nathani, resident of mohalla Kachisarai, P.S., Town and District-Muzaffarpur.
13. Savitri Devi Nathani, wife of Sri Jayram Das Nathani, resident of mohalla Chhata Bazar, Anditola, P.S., Town and District-Muzaffarpur (expunged vide order dated 18.2.2009 and substituted by her following heirs and legal representatives):
(i) Jairam Das Nathani, husband of late Savitri Devi Nathani
14. Ashok Kumar Nathani, son of late Savitri Devi Nathani
Both resident of B-43, Vindhaychal Apartment, Boring Road, P.S.-Budha Colony, District-Patna. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Ganpati Trivedi, Sr.Adv.

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 20-08-2016

Heard the learned senior counsel appearing on behalf of the petitioner. However, none appears on behalf of the State of Bihar and its functionaries, though the name of the learned State counsel is printed in the daily cause list. None appears on behalf of the private respondents as well, though notices were issued to them way back by an order dated 18.02.2009.

The petitioner is aggrieved by the order dated 09.04.2007



passed by the respondent District Collector, Muzaffarpur in mutation revision case no.1 of 2006-07, as contained in Annexure-6 to the writ petition, whereby the aforesaid mutation revision case filed on behalf of the private respondent no.5 and others has been allowed and the matter has been remitted back to the respondent Circle Officer, Mushahari on the ground of violation of rules of natural justice.

The learned senior counsel appearing on behalf of the petitioner submits that the claim of mutation raised on behalf of the petitioner was allowed by the respondent Circle Officer, Mushahari by order, as contained in Annexure-2 to the writ petition. According to him, the private respondent nos.5 and others, being aggrieved by the aforesaid order, preferred Mutation Appeal Case No.38 of 2005-06 before the respondent D.C.L.R., East, Muzaffarpur, who, after hearing the parties, had dismissed the aforesaid appeal by a reasoned and speaking order accepting the claims raised on behalf of the petitioner with respect to the lands in question. He further contends that the private respondent no.5 and others, being aggrieved by the aforesaid order, preferred the aforesaid Mutation Revision Case No.1 of 2006-07, but without considering the case of the parties, the respondent District Collector, Muzaffarpur has allowed the aforesaid revision case and remitted the matter back to the respondent Circle Officer, Mushahari with a direction to decide the case afresh. According to him, the order impugned cannot be sustained in law because he has not recorded the reasons with respect to the claims of the parties.

As noticed above, none appears on behalf of the respondents. However, I have gone through the impugned order passed by the revisional authority. From the findings recorded by the respondent District Collector, Muzaffarpur, it appears that before allowing the claim of the petitioner for mutation of her name with respect to the lands in question, an opportunity of hearing was not

given to the other side and, therefore, the revisional authority has remitted the matter back to the original authority. On query made by this Court, the learned senior counsel appearing on behalf of the petitioner has not been able to show that before passing the final order by the original authority i.e. the Circle Officer, Mushahari reasonable opportunity of hearing was given to the private respondents. Furthermore, this Court finds that with respect to the lands in question a Partition Suit No.96 of 1980 is already pending between the parties in which the petitioner is also a defendant.

After having considered the submissions made by the learned senior counsel appearing on behalf of the petitioner and taking into consideration the entire factual matrices of the present case particularly in view of the fact that by the impugned order the matter has been remitted back to the original authority on the ground of violation of rules of natural justice with a direction to decide the case of the mutation afresh, this Court does not feel persuaded to interfere with the impugned revisional order dated 09.04.2007 passed by the respondent District Collector, Muzaffarpur in mutation revision case no.1 of 2006-07, as contained in Annexure-6 to the writ petition.

Consequently, the present writ petition has to fail and is, accordingly, dismissed. The parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question, before the original authority as also in the pending partition suit amongst them. However, there shall be no order as to costs.

Arvind/-

(Birendra Prasad Verma, J.)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.08.2016
Transmission Date	N/A