

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11908 of 2007

- =====
1. Most.Durgawati Devi
 2. Dulh. Bidhyabati Devi, wife of Birendra Kumar Pandey No.1 wife and No.2 daughter of Bachchu Pandey, residents of village-Chatradhariganj, P.O.-Bisi Kala, P.S.-Sikraul Lock, District-Buxar

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Collector and District Magistrate, Buxar.
 3. Sri R.D.C. of Dumraon, District-Buxar.
 4. The Anchal Adhikari, Nawan Nagar, District-Buxar.
 5. Satyadeo Pandey
 6. Kapildeo Pandey
 7. Parasuram Pandey
 8. Sukhdeo Pandey
- Respondent nos.5 to 8 are sons of late Ramadhar Pandey
9. Vijay Shankar Pandey, son of Sukhdeo Pandey
- Respondent nos.5 to 9 are resident of village-Chandradhari Ganj, P.O.-Bisi Kala, P.S.-Sikraul, District-Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Mallika Mazumdar, Adv.
For the Respondent nos.1to4	:	Mr. Vivek Prasad, GP-7
		Mrs. Manisha Singh, AC to GP-7
For the Respondent no.6	:	Mr.Rajiv Ranjan Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 22-08-2016

Heard the learned counsel for the petitioners, the learned GP-7 appearing on behalf of the respondent nos.1 to 4 as also the learned counsel appearing on behalf of the respondent no.6. However, despite issuance of notice way back by an order dated 19.02.2009, none appears on behalf of the respondent nos. 5 and 7 to 9.

The matter in issue is the order passed by the revenue authorities with respect to the claims of the parties for mutation of their names with respect to the lands in question.

The petitioners have filed the present writ petition



assailing the validity and correctness of the order dated 22.12.2006 passed in Mutation Revision Case No.36 of 2003/108 of 2006 by the respondent District Collector, Buxar, as contained in Annexure-3 to the writ petition, whereby the aforesaid mutation revision case filed on behalf of the petitioners has been dismissed and the order dated 11.03.2003 passed by the appellate authority i.e. the D.C.L.R., Dumraon has been affirmed on the ground of serious dispute of title between the parties with respect to the lands in question as also on the ground that a Civil Suit is already pending in the court of learned Sub-Judge, Buxar.

Apparently, the claim of mutation raised on behalf of the petitioners has been rejected by the appellate authority as also the revisional authority. According to the learned counsel for the petitioner Civil Suit filed in the Civil Court was decided on the basis of the compromise arrived at between the parties, but, subsequently, the petitioners have filed Misc. Case No.5 of 2003 on the ground that the compromise decree is the result of the fraud committed by the other side. Taking into consideration the aforesaid aspect, the Misc.Case No.5 of 2003 was allowed and the compromise decree passed in Partition Suit No.493 of 1974 was set aside and the aforesaid partition suit has been directed to be decided afresh. It is the common case of the parties that the Civil Suit between the parties with respect to the lands in question has not been conclusively decided till date.

In view of the aforesaid factual matrices, this Court is of the opinion that no useful purpose shall be served by keeping the present writ petition pending any longer in this Court, rather the interest of justice shall be sub-served if a liberty is granted to the successful party in the Civil Suit to approach the revenue authority to

pass a fresh order of mutation with respect to the lands in question on the basis of the judgment and decree passed by the Civil Court. It is ordered accordingly.

It goes without saying that, if, after decision of the Civil Court with respect to the right and title of the parties over the lands in question, a fresh application of mutation is filed by the successful party, then the same shall be decided in accordance with law keeping in mind the judgment and decree passed by the Civil Court, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner and the private respondents herein.

The writ petition stands accordingly disposed of.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.08.2016
Transmission Date	N/A