

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23925 of 2013

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Kanhaiya Lal Mishra S/O Late Triveni Mishral, resident of Village-
Gajadharpur, P.S- Mohanpur, Panchayat, Arki, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through its Collector, Gaya.
2. The Land Reforms Deputy Collector, Sherghati, Gaya.
3. The Circle Officer, Mohanpur, Circle, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Shailendra Kumar Jha, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-01-2016

Heard the parties.

2. The grievance of the petitioner is that, despite a judgment and decree passed by the Civil Court of competent jurisdiction in Title Suit No. 136 of 1993/100 of 1987, the lands in question are not being mutated in favour of the petitioner and rent receipts are not being issued to him.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner has filed a representation before the respondent Anchal Adhikari, Mohanpur, District Gaya in the year 2012, but till date the matter has not been decided.

4. Learned State counsel, appearing on behalf of the respondents, on the other hand, has contested the claims of the petitioner by referring to the averments made in the counter affidavit filed on behalf of the respondent nos. 1 to 3. According to him, in fact, the lands in question were recorded "Anabad Bihar Sarkar" in the revenue records and were settled in favour of certain poor persons in the year 1987 itself, but without impleading the aforesaid settlees in the aforesaid title suit,

judgment and decree has been obtained by the petitioner; therefore, that is not binding upon those settlees.

5. It is not in dispute that the claim of mutation is required to be decided under the provisions of the Bihar Land Mutation Act, 2011 (in short “the Act, 2011”). The procedures have been prescribed for deciding the claim of mutation of a party in accordance with the provisions of the Act, 2011 and the Rules made thereunder. Indisputably, the petitioner has not filed any petition under the provisions of the aforesaid Act, 2011 for mutation of the lands in question in his favour.

6. In above view of the matter, the petitioner is granted liberty to approach the respondent Anchal Adhikari, Mohanpur by filing an appropriate petition in the prescribed format under the provisions of the Act, 2011 for redressal of his valid grievances.

7. If such a petition is filed on behalf of the petitioner within a period of one month from today after impleading all the necessary parties including the settlees, if any, over the lands in question, then the respondent Anchal Adhikari shall decide the claims of the petitioner after giving an opportunity of hearing to all concerned including the settlees, if any, by a reasoned and speaking order, at an early date preferably within a period of three months from the date of filing of such a petition by the petitioner.

8. The parties shall be at liberty to raise all the issues of facts and law before the respondent Anchal Adhikari, Mohanpur, which may be available to them, with respect to the lands in question.

9. It is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner in view of

controversy raised on behalf of the respondents regarding the judgment passed in the aforesaid title suit and this is left to be decided by the prescribed authority under the Act, 2011 in accordance with law.

10. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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