

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18049 of 2014

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Suresh Prasad son of Late Ramsharan Lal Verma @ Late Ramsharan Prasad
Resident of Village- Silao, P.O. + P.S.- Silao, District- Nalanda. Presently
R/o Mohalla- Chawkpar Bazar, Ward-35, Bihar Sharif, P.S.- Bihar Sharif,
District- Nalanda

.... Petitioner/s

Versus

1. The Municipal Commissioner, Bihar Sharif Municipal Corporation,
Nalanda
2. Kapildeo Ravidas, Area TEHSILDAR, Bihar Sharif Municipal
Corporation, Nalanda
3. Baijnath Prasad S/o Late Sadhu Lal, R/o Mohalla- Gorhatta, P.O.+P.S.-
Patna City, District- Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Mahendra Prasad Verma, Advocate

For the Municipal Corporation : Mr. Gyan Prakash Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

2 27-01-2016 Heard Mr. M.P. Verma, counsel for the petitioner and
counsel for the Municipal Corporation.

The petitioner is aggrieved by the order dated 21.5.2013
passed by the Municipal Commissioner, Bihar Sharif Municipal
Corporation, Nalanda in Case No. 461 of 2011 whereby he has
allowed the mutation prayed for by the private respondent in
respect of Holding No. 221 falling in Ward No. 35, Mohalla-
Chowkpur in the district of Nalanda in consideration of Sale Deed
No. 11577 executed in the year 1992 in favour of the applicant-
private respondent. Mr. Verma has referred to a relinquishment



made by the private respondent Baijnath Prasad, a copy of which is placed at Annexure-2, to submit that although by the said deed of relinquishment, the private respondent has relinquished his right over the plot in question in favour of the petitioner but this deed has been ignored by the Commissioner who has relied upon a sale deed bearing No. 11577 of the year 1992 when in fact the private respondent himself has mentioned the year of the said sale deed as 1988-89. It is on such grounds regarding confusion as to the date of the sale deed as well as the relinquishment issued by the private respondent that the order is being questioned. Mr. Verma, however, even while questioning the impugned order on such grounds fairly accepts that the sale deed in question bearing No. 11577 whether executed in the year 1992 or 1989 in favour of the private respondent by the petitioner has not been set aside by a competent court of civil jurisdiction.

In the circumstances where admittedly the sale deed in question bearing No. 11577 has not been set aside by a court of competent civil jurisdiction and the relinquishment deed so present at Annexure-2 neither is a registered instrument and where the author thereof i.e. the private respondent himself has filed an application before the Municipal Commissioner for getting the name mutated, such civil dispute is best left to be

adjudicated by the court of competent civil jurisdiction and notwithstanding the order passed by the Municipal Commissioner which in view of the sale deed No. 11577 standing in favour of the private respondent, cannot be faulted presently, the petitioner if so advised, can seek his remedy before the court of competent civil jurisdiction.

This application is disposed of.

(Jyoti Saran, J)

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