

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8811 of 2010

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Lallan Choudhary, S/O Late Ram Krit Choudhary, R/O Vill.- Manjhauli, P.O.-
Siaruan, P.S.- Sanjhauli, Distt.- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Rohtas at Sasaram
3. The Deputy Collector Land Reforms, Bikram Ganj, Distt.- Rohtas
4. The Additional Collector, Rohtas at Sasaram
5. The Circle Officer, Sanjhauli Block, Distt.- Rohtas
6. Ram Adhar Singh, S/O Late Ram Dhyan Singh
7. Uma Shankar Singh, S/O Ram Adhar Singh
8. Dhiraj Singh, S/O Janardan Singh
Respondent nos.6 to 8 are R/O Vill.- Manjhauli, P.O.- Siaruan, P.S.- Sanjhauli,
District-Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Prasad, Adv.
For the Respondent nos.1to5 : Mr. Wasim Ahmed Khan, AC to SC-25
For the Respondent nos.6to8 : Mr.Rewati Kant Raman, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 08-08-2016

Heard the parties.

The petitioner is aggrieved by the order dated 02.12.2008 passed in Mutation Revision Case No.81 of 2008 by the respondent Additional Collector, Rohtas (Sasaram), as contained in Annexure-5 to the writ petition, whereby the aforesaid Mutation Revision Case filed on behalf of the petitioner has been dismissed on the ground of limitation.

The learned counsel appearing on behalf of the petitioner submits that, against the impugned appellate order dated 08.09.2008 (Annexure-4) passed in Mutation Appeal Case No.41 of 2006-07 by the respondent D.C.L.R. Bikramganj (Rohtas), the petitioner filed his aforesaid mutation revision case on 18.11.2008

within time after excluding the period required for obtaining certified copy of the appellate order, but the revisional authority, without taking into consideration the aforesaid aspect, has dismissed the revision application filed on behalf of the petitioner on the ground of limitation.

Though, this writ petition was filed way back on 17.05.2010 and the notices were issued to the private respondent nos.6 to 8 by an order dated 23.6.2010, who are appearing through their counsel, but no counter affidavit has been filed till date either on behalf of the official respondents or on behalf of the private respondents controverting the averments made in the writ petition. Therefore, the averments made in the writ petition have to be accepted.

Otherwise also, this Court finds that there was no huge or long delay in filing the revision case, as the appellate order was passed on 08.09.2008 (Annexure-4) and the impugned revisional order was passed on 02.12.2008 (Annexure-5) within a period of three months. In above view of the matter, this Court is of the considered opinion that the matter requires reconsideration and fresh decision on merits by the revisional authority.

For the reasons recorded above, the impugned order dated 02.12.2008 passed in Mutation Revision Case No.81 of 2008 by the respondent Additional Collector, Rohtas (Sasaram), as contained in Annexure-5 to the writ petition, is hereby set aside and quashed, and the matter is remitted back to the revisional authority with a direction to decide the aforesaid mutation revision case afresh on merits, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner as also the private respondent nos.6 to 8, besides others, if any. Limitation, if

any, in filing the aforesaid revision case shall be construed to have been condoned by this Court.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.08.2016
Transmission Date	N/A