

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12451 of 2008

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1. Laxmi Narqayan Yadav (Expunged vide order dated 27.01.2014 and substituted by his following heirs and legal representatives)

- 1(i) Ashok Kumar Yadav
1(ii) Arun Kumar
1(iii) Arvind Kumar
1(iv)Om Prakash Yadav
1(v)Sachida Nand Yadav

All sons of Late Ashok Kumar Yadav

2. Gore Lal Yadav
3. Ishwar Chand Yadav
4. Nand Kishore Yadav

All sons of Ram Narayan Yadav

All petitioners are residents of village Rangakol, P.O.Slempur, P.S.Phalka, District Katihar

... Petitioner/s

Versus

1. The State of Bihar
2. Collector, Katihar, District Katihar
3. Additional Collector, Katihar
4. SDO, Katihar
5. LRDC, Katihar
6. Circule Officer, Phalka Anchal, Phalka, District Katihar
7. Yugal Kishore Yadav S/o Late Balchand Yadav (**Expunged vide order dated 08.05.2015 and substituted by his following heirs and legal representatives**)

- 7(i) Ashok Kumar
7(ii) Dilip Kumar
7(iii)Vibhas Kumar
7(iv)Sanjiv Kumar
7(v) Santosh Kumar
7(vi)Praveen Kumar
7(vii) Paritosh Kumar

All are sons of Late Yugal Kishore Yadav and are residents of Village Rangakol, P.O.Salehpur, P.S.Phalka, District Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Krishna Prasad, Advocate

For the Respondent Nos.1 to 6 : Mr. Shailesh Kumar, AC to GP 20

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 22-04-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned AC to GP 20, appearing on behalf of the respondent nos. 1 to 6. However, despite valid service of

notice upon the substituted respondent nos. 7(i) to 7(vii), none is appearing on their behalf to contest the matter.

2. The matters at issue are the orders passed by the revenue authorities with respect to mutation of the lands in question, fully detailed in paragraph 8 of the writ petition.

3. The learned counsel appearing on behalf of the petitioners and the learned State counsel, appearing on behalf of the official respondents, are unanimous in their submissions that claim for mutation of the lands in question was allowed by the original authority in favour of the private respondents by order as contained in Annexure-5, which was reversed by the appellate authority by order as contained in Annexure-6. However, the order passed by the appellate authority has been reversed by the revisional authority by the impugned order dated 26.05.2008 passed in Mutation Revision No. 736 of 2002-03, as contained in Annexure-7.

4. From the facts noticed above, it is apparent that the claim of mutation of the writ petitioners with respect to the lands in question has been rejected by the original authority as also by the revisional authority.

5. On examination of the pleadings of the petitioners and the findings recorded by the revisional authority in the impugned revisional order, this Court is of the opinion that unless and until issues of right and title of the parties over the lands in question are decided by the Civil Court of competent jurisdiction, issue of possession cannot be effectively and properly decided by the revenue authorities by passing the orders of mutation.

6. In above view of the matter, the present writ petition is dismissed, but liberty is granted to the petitioners to

approach the Civil Court of competent jurisdiction by filing an appropriate civil suit for grant of appropriate relief (s) including that for declaration of right, title and possession over the lands in question. If such a civil suit with a certified copy of the present order is filed on behalf of the petitioners, after impleading all necessary parties, within a period of three months from today, the same shall be decided on its own merits strictly in accordance with law, but without being prejudiced or influenced either by dismissal of the present writ petition or by any finding recorded, either in favour of the petitioners or in favour of the private respondents, in the orders passed by the revenue authorities regarding mutation of the lands in question, which are the subject matter of consideration in the present proceeding.

7. It is further clarified that the parties shall be at liberty to raise all the issues of facts and laws with respect to the lands in question, which may be available to them, before the civil court.

(Birendra Prasad Verma, J)

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