

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16402 of 2007

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Bettiah Estate Under Court of Wards through its Manager at and P.O. and Police
Station Bettiah Town, District West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, West Champaran at Bettiah
3. The Land Reforms Deputy Collector, Bettiah
4. The Anchal Adhikari, Bettiah
5. The Superintendent, M.J.K.Hospital, Bettiah, P.O. and Police Station Bettiah
Town, District West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, 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 JUDGMENT

Date: 28-03-2016

Heard the parties.

2. The matters at issue is the validity and correctness of the orders passed by the revenue authorities regarding mutation of lands in question and/or for cancellation of jamabandi already standing.

3. The petitioner is aggrieved by order dated 27.05.2005 passed in Mutation Appeal No. 19 of 2005-06 by the respondent DCLR, Bettiah, as contained in Annexure-5 to the writ petition, whereby the aforesaid mutation appeal filed on behalf of the petitioner for cancellation of jamabandi has been rejected on the ground of limitation. The petitioner is also aggrieved by order dated 14.02.2006 passed in Mutation Revision No. 44 of 2006 by the respondent District Collector, West Champaran, Bettiah, as contained in Annexure-6 to the writ petition, whereby the aforesaid mutation revision application filed on behalf of the petitioner has been rejected mechanically by a cryptic and non-speaking order.



4. The learned counsel appearing on behalf of the petitioner submits that the Bettiah Estate was put under the Court of Wards way back in the year 1896, as the then proprietor of Bettiah Estate Maharani Janki Kunwar was declared incompetent to manage the Estate. He further submits that the Member, Board of Revenue, Bihar, Patna has been appointed as Court of Wards under the provisions of The Court of Wards Act, 1879 (in short, “the Act, 1879”). It is also contended that the properties of Bettiah Estate are not the properties of the State of Bihar and they are simply under the management and control of the Court of Wards for the benefits of its Ward (s). According to him, the impugned orders passed by the revenue authorities are not sustainable in law on the ground that they are non-speaking and cryptic one.

5. The learned AC to AAG 13, appearing on behalf of the respondents, has contested the matter. According to him, the petitioner has not been authorized by the Court of Wards, i.e. the Member, Board of Revenue, Bihar, Patna for filing the present writ petition; therefore, on that ground alone, the writ petition is liable to be dismissed. He also contended that that jamabandi with respect to the lands in question bearing plot nos.5227 and 5228 were created in favour of M.J.K.Hospital in the year 1947. Therefore, the appeal and revision preferred on behalf of the petitioner have rightly been rejected by the respondents DCLR and the respondent District Collector vide orders, as contained in Annexures-5 and 6 to the writ petition respectively. However, on query made by this Court, he fairly conceded that the impugned order passed by the respondent District Collector is non- speaking and cryptic one and on that ground, the matter may be remitted to the respondent District Collector, West Champaran, Bettiah with a direction to pass a fresh order in

accordance with law.

6. Though the present matter is pending before this Court since 13.12.2007 and despite passage of more than eight years, all the issues and facts involved herein have not been brought on the record and the real issues have not been answered by filing proper counter affidavit on behalf of the respondents.

7. After having heard the parties and on examination of the materials available on the record, this Court finds that with respect to lands in dispute bearing plot nos. 5227 and 5228 jamabandi was created earlier in the year 1947 in the name of Maharani Janki Kunwar Hospital (in short, "M.J.K. Hospital") by the competent authority, but the order of creation of aforesaid jamabandi was not challenged for quite a long time by any person including the present petitioner. However, after a long time, the petitioner filed Mutation Appeal No. 19 of 2005-06 before the respondent DCLR, Bettiah which was dismissed by the impugned order dated 27.05.2005 (annexure-5) on two grounds: Firstly, on the ground of limitation; and secondly on the ground that with respect to lands in question a public interest litigation was pending in the Hon'ble High Court, therefore, it would not be proper for him to consider the issue raised in that appeal. From the order passed by the respondent DCLR, it is apparent that he has not considered the issues involved with respect to the lands in question. The petitioner, being aggrieved by the aforesaid order, preferred Mutation Revision No. 44 of 2006 before the respondent District Collector, West Champaran, Bettiah, but the respondent District Collector, without formally initiating any revisional proceeding, on the left side margin of the first page of the revision application itself, passed impugned revisional order dated 14.02.2006 (Annexure-6) rejecting the revision application filed on



behalf of the petitioner on the ground of delay of over sixty years. Evidently, the respondent District Collector has not applied his independent judicial mind to the facts of the case or the issues raised on behalf of the petitioner there in that revision application. He has also not examined the matter in the light of the provisions of the Act, 1879. Once the properties of Bettiah Estate was put under the Court of Wards, which are required to be managed and controlled by the Member, Board of Revenue, Bihar, Patna in view of the provisions of the Act, 1879, then the respondent District Collector ought to have considered whether the aforesaid revision application filed on behalf of the petitioner was at all maintainable and whether there was any authorization by the Member, Board of Revenue, Bihar, Patna for raising such dispute before the revenue authorities, with respect to the lands in question, which goes to the root of the matter. In above view of the matter, this Court is of the opinion that the entire matters require reconsideration and a fresh decision by a reasoned and speaking order by the respondent District Collector, West Champaran, Bettiah.

8. For the reasons recorded above, the impugned order dated 14.02.2006 passed in Mutation Revision No. 44 of 2006 by the respondent District Collector, West Champaran, Bettiah, as contained in annexure-6, is hereby set aside and quashed, and the matter is remitted back to him with a direction to decide the aforesaid revision application afresh by a reasoned and speaking order by looking into all the relevant records concerning lands in question as also the orders/directions issued by the Member, Board of Revenue, Bihar, Patna under the provisions of the Act, 1879.

9. In order to expedite the matter, the Manager of the writ petitioner is directed to appear before the respondent District

Collector, West Champaran, Bettiah within a period of six weeks from today with a certified copy of the present order, whereafter the respondent District Collector, West Champaran shall proceed to decide the aforesaid mutation case filed on behalf of the petitioner afresh by a reasoned and speaking order, but before passing any final order, opportunity of hearing must be given to all concerned including the writ petitioner and the concerned respondents, besides others, if any. While passing the fresh order, the respondent District Collector, West Champran, Bettiah shall also consider as to whether the revision application filed by the Manager of the Bettiah Estate is at all maintainable in view of the provision of the Act, 1897.

10. It is clarified that if the Manager of the writ petitioner fails to appear in the manner indicated and within the time prescribed by this Court, then it shall be construed that the present writ petition stood dismissed on account of non-compliance of the order passed by this Court.

11. The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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