

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5003 of 2014

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Smt. Usha Devi, Wife Of Sri Nandan Thakur @ Khushan Thakur, Resident
Of Village- Patahi, Jagarnath, P.S.- Sadar, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Revenue and Land Reforms Department, Govt. Of Bihar,
Patna
3. The Circle Officer, Mushari Anchal, District- Muzaffarpur
4. Smt. Meera Thakur, Wife Of Shri Shyam Chandra Thakur, Resident Of
Village- Patahi Jagarnath, P.S.- Sadar, District- Muzaffarpur
5. Sri Srinandan Thakur @ Kushan Thakur, Son Of Late Chandrapat
Thakur, Resident Of Village- Patahi Jagarnath, P.S.- Sadar, District-
Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Mahasweta Chatterjee, Adv.
For the Respondent no.4 : Mr. Sanjay Kumar Ojha, Adv.
For the Respondent no.5 : Mr. Madheshwar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 24-06-2016 Heard the parties.

The petitioner is aggrieved by the order dated 09.05.2008 passed in Mutation Case No.695 of 2008-09 by the respondent Anchal Adhikari, Mushari, as contained in Annexure-4 to the writ petition, whereby petition for mutation filed on behalf of the respondent no.4 with respect to the lands in question has been allowed and the revenue records have been directed to be corrected accordingly.

Learned counsel appearing on behalf of the petitioner submits that the lands in question was gifted to the petitioner, whereafter it was recorded in her name. She further submitted that, before passing the impugned order of mutation, an opportunity of hearing was not given to the petitioner. Therefore, on that ground

alone, the impugned order is not sustainable in law.

Learned counsel appearing on behalf of the respondent nos.4 and 5, on the other hand, have contested the matter and have submitted that, against the order impugned, the petitioner has an alternative remedy before the appellate authority; therefore, on that ground alone, the writ petition is liable to be dismissed. Learned counsel appearing on behalf of the respondent no.4 further submits that she has purchased the lands in question through registered sale deed and, therefore, the lands in question has rightly been mutated in her name by the impugned order.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the present matter requires reconsideration and fresh decisions by the respondent Anchal Adhikari, Mushari under the provisions of Section 3 of The Bihar Land Mutation Act, 2011, as apparently, before passing the impugned order, an opportunity of hearing was not given to the petitioner, though both sides claim their right, title and possession over the lands in question on the basis of their respective documents.

Without going into the merits of the claims of the parties regarding the lands in question, the impugned order passed by the respondent Anchal Adhikari, Mushari is set aside only on the ground of violation of principles of natural justice and the matter is remitted back to him for passing a fresh order of mutation in accordance with law.

In the result, the impugned order dated 09.05.2008 passed in Mutation Case No.695 of 2008-09 by the respondent Anchal Adhikari, Mushari, as contained in Annexure-4, is hereby set aside and quashed and the matter is remitted back to the

respondent Anchal Adhikari, Mushari with a direction to decide the claims of the mutation of the parties afresh strictly in accordance with law.

It is clarified that this Court has not gone into the merits of the claims of the parties regarding the lands in question and it is left to be decided by the statutory authorities in accordance with law.

In order to expedite the matter, the petitioner as also the respondent nos. 4 and 5 are hereby directed to appear before the respondent Anchal Adhikari, Mushari within a period of one month from today with a certified copy of the present order, whereafter he shall proceed to decide the matter in accordance with law.

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

Consequently, the present 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)

Arvind/-

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