

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8847 of 2014

=====

Anjani Kumar Sinha, son of late Kedar Prasad, R/o Village + P.O. + P.S.
Kochas, District Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Rohtas.
3. Addl. Collector, Rohtas (Sasaram).
4. The Sub-Divisional Officer, National Highway (Bhatal Paribahan Bibhag
Bharat Sarkar) Sasaram, Rohtas.
5. The Sub-Divisional Officer, P.W.D. (Road) , Sasaram, Rohtas.
6. Deputy Collector Land Reforms, Sasaram, Rohtas.
7. The District Land Acquisition Officer, Rohtas.
8. Anchal Adhikari, Kargahar, Rohtas.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahesh Prasad, Adv.

Mr. Rewti Kant Raman, Adv.

For the Respondent/s : Mr. Rakesh Ranjan, AC to GP-22

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 19-09-2016

Heard.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 30.11.1999 passed in Mutation Case No.799 of 1999-2000 by the respondent Anchal Adhikari, Kargahar, as contained in Annexure-4 to the writ petition, whereby the petition filed on behalf of the respondent no.4 for mutation of the lands in question, fully detailed in paragraph 4 of the writ petition, besides other plots of lands, has been allowed.

The learned counsel appearing on behalf of the petitioner submits that the petitioner had filed Title Suit No.474 of 1998 before the learned Sub-Judge-IV, Sasaram with respect to the same plots of lands, in which State of Bihar and other



respondents were also parties. Therefore, during the pendency of the aforesaid title suit the respondent Anchal Adhikari, Kargahar could not have passed the impugned order of mutation in favour of the respondents. He further submits that during the pendency of the writ petition the sole petitioner has died leaving behind his heirs and legal representatives. However, the date of death of the deceased petitioner was known to him.

The learned State counsel appearing on behalf of the respondents has opposed the prayer by referring to the averments made in the counter affidavit filed on behalf of the respondent nos.2, 3, 6 and 8. According to him, the lands in question was acquired long long ago in the year 1959-60 for construction of inspection bungalow, officer residence and godown of PWD and subsequently it was handed over to the National Highway Authority of India for construction of N.H.-30. It is contended that since the lands in question has been coming in possession of N.H.-30; therefore, the order of mutation was passed on 30.11.1999 after hearing all the parties. He also pointed out that Title Suit No.474 of 1998 filed by the petitioner has already been dismissed by the Civil Court and the writ petition suffers from delay and laches.

After having heard the parties, this Court is of the opinion that no useful purpose shall be served by keeping the present matter pending any longer, as the writ petition has to fail at least on three grounds; firstly, the impugned order was passed on 30.11.1999 and the present writ petition has been filed on 09.05.2014 i.e. after delay of about 15 years. No valid explanation has been furnished by the petitioner for approaching this Court in the present writ petition after such a huge and

unexplained delay of about 15 years; secondly, the Title Suit No.474 of 1998 filed on behalf of the petitioner has indisputably been dismissed by the learned Sub-Judge-IV, Sasaram by a judgment and decree dated 24.07.2009. Therefore, the claim of right, title and possession of the petitioner over the lands in question has not been accepted by the Civil Court; and thirdly, the impugned order is appealable and revisable, but no appeal or revision was filed by the petitioner against the impugned order passed on 30.11.1999 and overall the writ petitioner is said to have died as per the submission made by the learned counsel for the petitioner, but his heirs and legal representatives have not come forward to get themselves substituted in place of sole deceased petitioner for prosecuting the present writ petition. In absence of any substitution petition having been filed by the heirs and legal representatives of the deceased petitioner the writ petition has abated.

For the reasons recorded above, this Court is of the opinion that not only the present writ petition has abated on account of death of the sole petitioner, but it is devoid of merit also. It is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--