

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6828 of 2012

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1. Savaliya Prasad son of Late Hardeo Lal, resident of Village-Niharuan Khurd, P.S. Kateya, District-Gopalganj

2. Vanshidhar Prasad @ Vanshidhar Shrivastava son of Late Sahdeo Lal, resident Of Village-Niharuan Khurd, P.S. Kateya, District-Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar

2. The Collector, Gopalganj

3. The Additional Collector, Gopalganj

4. Ajay Shrivastava son of Late Nand Kishore Prasad, resident of Village-Niharuan Khurd, P.S. Kateya, District-Gopalganj

5. Gauri Devi wife of Late Nand Kishore Prasad, resident of Village-Niharuan Khurd, P.S. Kateya, District-Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No-5, Advocate

For the Respondent Nos. 1 to 3: Mr.S.P.Verma, AC to GA 1

For the Respondent Nos. 4 & 5: Mr. Nityanand Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 18-01-2016

Heard the parties.

2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 23.02.2012 passed in Mutation Revision Case No. 13 of 2008 by the Additional Collector, Gopalganj, as contained in Annexure-2, whereby the petition filed on behalf of the petitioners for restoration of the aforesaid mutation revision case, which was dismissed for want of prosecution by an order dated 21.01.2012, has been rejected.

3. Learned counsel appearing on behalf of the petitioners submits that, though the petitioners were present on different dates, yet the aforesaid revision case filed on behalf of the petitioners was not decided on merits, but on 21.01.2012 it was dismissed for want of prosecution. It is contended that, though the

petitioners furnished the valid explanation for their non-appearance on 21.01.2012, yet prayer for restoration has been rejected by the impugned order dated 23.02.2012.

4. The matter has been contested by the respondent nos. 4 and 5 by filing a counter affidavit on their behalf. Learned counsel appearing on behalf of the respondent nos. 4 and 5 submits that the petitioners are unnecessarily dragging the aforesaid mutation revision case since long and thereby they are putting the private respondent nos. 4 and 5 under great financial loss. It is also contended that even before the original authority, the mutation case filed on behalf of the petitioners was dismissed, but that was restored and the matter was decided on merits.

5. After having heard the parties and on consideration of the materials available on the record, this Court finds that the matter has not been decided on merits; rather the aforesaid mutation revision case filed on behalf of the petitioners has been dismissed on technical ground on account of non-appearance of the petitioners. Therefore, this Court is of the opinion that though respondent nos. 4 and 5 are required to be adequately compensated, but the interest of justice demands that the matter is directed to be decided on merits by the revisional authority.

6. For the reasons recorded above, the impugned orders dated 23.02.2012 as also 21.01.2012 passed in Mutation Revision Case No. 13 of 2008 by the respondent Additional Collector, Gopalganj, as contained in Annexure-2 to this writ petition, are hereby set aside and quashed, and the respondent Additional Collector, Gopalganj is hereby directed to decide the aforesaid Mutation Revision Case No. 13 of 2008 on merits. However, this order is subject to payment of costs of Rs.2000/-

(Rupees two thousand) to the learned counsel appearing on behalf of the respondent nos. 4 and 5 within a period of four weeks from today and a receipt showing payment of costs must be filed within the aforesaid period of four weeks, failing which it shall be construed that the present writ petition stood dismissed on account of Court's peremptory order.

7. In order to expedite the matter, the petitioners and the respondent nos. 4 and 5 are hereby directed to appear before the respondent Additional Collector, Gopalganj on 29th February, 2016 with a certified copy of the present order, subject to payment of costs by the petitioners to the learned counsel appearing on behalf of the respondent nos. 4 and 5 within the time prescribed. On their appearance, the respondent Additional Collector, Gopalganj shall fix a firm date for deciding the aforesaid mutation revision case on merits and all endeavour shall be made to dispose of the aforesaid mutation revision case at an early date preferably within a period of three months from the date of appearance of the parties.

8. It is clarified that 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 revisional authority.

9. 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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