

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14369 of 2015

1. Ajay Ojha

2. Vijay Ojha

Both are sons of Sri Rishideo Ojham resident of Village - Dhoomnagar, Motiyaria, Police Station - Shikarpur, Post Office - Narkatiyaganj, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.

2. District Magistrate-cum-Collector, West Champaran, at Bettiah.

3. Additional District Magistrate-cum-Additional Collector, West Champaran at Bettiah.

4. Deputy Collector, Land Reforms, Narkatiyaganj, West Champaran.

5. Circle Officer, Narkatiyaganj, West Champaran.

6. Circle Inspector, Narkatiyaganj, West Champaran.

7. Ram Lal Mahto son Lakshman Mahto, resident of Village - Dhoom Nagar, Police Station - Shikarpur, District - West Champaran.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Shekhar, Advocate

For the Respondent Nos. 1 to 6 : Mr. Bipin Kumar, AC to SC 3

For the Respondent No.7 : Mr. Raghunandan Kumar Singh, Advocate
Mr. Upadhyay Saurabh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-09-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned AC to SC 3, appearing on behalf of the respondent nos. 1 to 6 as also the learned counsel appearing on behalf of the respondent no.7.

2. The petitioners are aggrieved by the order dated 18.02.2015 passed by the Circle Officer, Narkatiyaganj, as contained in Annexure-8 to the writ petition, whereby the claim of mutation raised on behalf of the private respondent no.7 with respect to the lands in question has been allowed.

3. The learned counsel appearing on behalf of the petitioners submits that the claim of mutation raised on behalf of the private respondent no.7 was earlier rejected by an order dated



16.05.2012 (Annexure-6) by the respondent Anchal Adhikari, Narkatiyaganj, which was affirmed by the respondent DCLR, Narkatiyaganj by order dated 20.10.2012, as contained in 7 to the writ petition. Therefore, according to him, once the claim of mutation was rejected by the Circle Officer, Narkatiyaganj, then, on same sets of fact, such claim could not have been allowed by the respondent Circle Officer, Narkatiyaganj by the impugned order dated 18.02.2015, as contained in Annexure-8 to the writ petition.

4. The learned counsel appearing on behalf of the respondent nos. 1 to 6 as also the learned counsel appearing on behalf of the respondent no.7 have contested the matter. According to them, the claim of right and title of the petitioners over the lands in question is in serious dispute. They contended that the impugned order has been passed on the direction of the respondent Additional Collector, West Champaran, Bettiah, which cannot be legally faulted.

5. After having heard the parties and on consideration of the materials available on the record, this Court finds that there is serious dispute of right and title over the lands in question, which cannot be effectively decided in mutation proceeding by the revenue authorities.

6. In above view of the matter, the petitioners are granted liberty to approach of civil court of competent jurisdiction for grant of appropriate relief(s) with respect to the lands in question. If an appropriate civil suit is brought by the petitioners within three months from today after impleading all the necessary parties including the private respondent no.7, besides others, if any, then the same shall be decided on the basis of the

evidence/materials produced by the parties in accordance with law, but without being prejudiced/influenced by any finding recorded by the Circle Officer in the impugned order.

7. Till the matter is decided by the civil court, the impugned order shall be kept in abeyance and once the matter is decided by the competent civil court with respect to right and title of the parties, then the revenue authority shall be obliged to pass fresh order of mutation in accordance with law.

8. In the result, the writ petitions stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--