

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.965 of 2014

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1. Ratneshwar Prasad Singh @ Ratneshwar Kumar Son of Late Raghunath Prasad Singh, Resident of Village and Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 2. Sidheshwar Prasad Singh Son of Late Rghunath Prasad Singh, Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 3. Subheshwar Prasad Singh Son of Late Raghunath Prasad Singh Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 4. Madhusudan Prasad Singh Son of Late Raghunath Prasad Singh Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 5. Amod Kumar Son of Late Raghunath Prasad Singh, Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 6. Bibha Kumari Daughter of Late Raghunath Prasad Singh Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur
 7. Mostt. Manorama Devi Wife of Late Raghunath Prasad Singh Resident of Village And Post Basantpur Patti P.S. Saraiya, District Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary Land and Revenue Reforms Department
2. That Principal Secretary, Land And Revenue Reforms Department
3. The District Magistrate, Muzaffarpur
4. The Deputy Commissioner of Land Revenue, Muzaffarpur
5. The Circle Officer, Saraiya, District Muzaffarpur
6. The Halka Karmachari, Saraiya, District Muzaffarpur
7. Sri Rajendra Prasad Singh Son of Late Kabindra Prasad Singh, Resident of Village and P.O.- Basantpur Patti, P.S.- Saraiya, District- Muzaffarpur
8. Sri Brindra Prasad Singh Son of Late Kabindra Prasad Singh Resident of Village and P.O.- Basantpur Patti, P.S.- Saraiya, District- Muzaffarpur
9. Sri Dharendra Prasad Singh Son of Late Kabindra Prasad Singh Resident of Village And P.O.- Basantpur Patti, P.S.- Saraiya, District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. T. N. Maitin, Sr. Adv.
Mr. Mukund Mohan Jha
For the Respondent No.1 to 6: Mr. Kumar Manish, SC-21
For the Respondent No. 7 to 9: Mr. V. Narayan, Sr. Adv.
Mr. Manoj Kumar Manoj

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL Judgement

5 18-04-2016 Heard the parties.

The matters at issue is the claim of mutation of the petitioners viz a viz respondent no. 7 to 9 with respect to a parcel of lands mentioned in paragraph-1 of the writ petition.

The claim of mutation raised on behalf of the respondent no. 7 to 9 with respect to the lands under dispute was allowed by order dated 12.06.2003 passed in Case No. 646 of 2003-04 by the respondent Circle Officer, Saraiya in the district of Muzaffarpur, as contained in Annexure-4. Admittedly, before passing aforesaid final order, opportunity of hearing was not given to the petitioners. The petitioners, being aggrieved by the aforesaid order, filed Jamabandi Correction Appeal case No. 1 of 2004-05, which was finally allowed by the respondent D.C.L.R., West, Muzaffarpur by order dated 08.10.2004 (Annexure-5) and the order passed by the respondent Circle Officer was set aside. Thereafter, the private respondent no. 7 to 9, being aggrieved by the aforesaid appellate order, preferred Miscellaneous Case No. 78 of 2004-05 before the respondent District Collector, Muzaffarpur, who by his impugned order dated 02.04.2013 has set aside the appellate order dated 08.10.2004 and has remanded the matter back to the respondent D.C.L.R., West, Muzaffarpur.

Normally, this Court does not interfere with the order of remand; and therefore, on that ground, the writ petition could have been dismissed, but this Court finds that very original order of mutation passed by the respondent Circle Officer, Saraiya vide Annexure-4 itself is not sustainable on the ground that the aforesaid order dated 12.06.2003 was passed in complete violation of the rules of natural justice, as no opportunity of hearing was given to the writ petitioners, though they were also laying their

claims over the lands in question.

In the aforesaid factual matrices, this Court is of the considered opinion that the claim of mutation of the lands in question of the writ petitioners viz- viz the private respondent no. 7 to 9 is required to be decided afresh strictly in accordance with law, right from very beginning i.e. from the stage of the original authority.

For the reasons recorded above, the original order dated 12.06.2003 passed in Case No. 646 of 2003-04 by the respondent Circle Officer, Saraiya, as contained in Annexure-4, the appellate order dated 08.10.2004 passed in Jamabandi Correction Appeal Case No. 1 of 2004-05 by the respondent D.C.L.R., West, Muzaffarpur, as contained in Annexure-5 and the impugned revisional order dated 02.04.2013 passed in Miscellaneous Case No. 78 of 2004-05 by the respondent District Collector, Muzaffarpur (Annexure-6) are hereby set aside and quashed; and the entire matter is remitted back to the respondent Circle Officer, Saraiya, District Muzaffarpur with a direction to decide the claim of mutation of the parties afresh strictly in accordance with the provision of the Bihar Land Mutation Act, 2011 (In short 'the Act, 2011).

In order to expedite the matter, the petitioners as also the respondent no. 7 to 9 are hereby directed to appear before the respondent Circle Officer, Saraiya, District Muzaffarpur with all supporting materials/ documents as also with the certified copy of the present order within a period of one month from today, whereafter he shall register a fresh case under the provisions of the Act, 2011 for the purposes of mutation of the land in question. Thereafter, he shall proceed to decide the same strictly in

accordance with law on the basis of the materials/ documents produced by the parties and all endeavours shall be made to dispose of the aforesaid mutation case at an early date preferably within a maximum period of two months from the date of appearance of the parties in the manner indicated above.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law before the respondent Circle Officer, Saraiya, District Muzaffarpur with respect to the lands in question, which may be available to them.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties shall bear their own costs.

(Birendra Prasad Verma, J)

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