

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.938 of 2009

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Smt.Jyoti Prabha Devi @ Nirmala Devi wife of Shri Megh Nath Singh,
resident of Village Basti Jalal, P.O. Basti Jalal, P.S.Dighwara, District Saran
(Chapra)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Saran, District Saran (Chapra)
3. Additional Collector, Saran, District Saran (Chapra)
4. Deputy Collector, Land Reforms, Sonapur, District Saran (Chapra)
5. The Circle Officer, Dighwara, Anchal Dighwara, District Saran
6. Tijiya Devi daughter of Late Shiv Narayan Singh wife of Shri Raj Kishore Singh, resident of Village and P.O. Chheri Chapra, P.S.Banshdih, District Balia (U.P.)
7. Most. Shobha Devi wife of Late Kashi Nath Gupta, resident of Village and P.O. Basti Jalal, P.S.Dighwara, District Saran (Chapra)
8. Champa Devi wife of Late Sant Ram Singh, resident of Village and P.O. Basti Jalal, P.S. Dighwara, District Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kr. Singh, Advocate
Mr. Arvind Kumar, Advocate

For the Respondent Nos. 1 to 5: Mr. Upendra Pratap Singh, AC to SC 4

For the Respondent Nos. 6 to 8: Mr. Arun Kr.Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 09-01-2017

Heard the parties.

2. The matter in issue is the claim of mutation of the names of the parties with respect to the lands in question, detailed in paragraphs 7 and 8 as also the impugned orders.

3. The petitioner is aggrieved by order dated 03.09.2008 passed in Mutation Revision Case No. 64 of 2001 by the respondent District Collector, Saran, Chapra, as contained in Annexure-1 to the writ petition, whereby the aforesaid Mutation revision case filed on behalf of the petitioner has been dismissed and the order passed by the appellate authority has been affirmed.

4. The learned counsel appearing on behalf of the petitioner submits that the respondent Circle Officer, Dighwara



by his order dated 10.07.1999 passed in Mutation Case No. 387 of 1998-1999, as contained in Annexure-4 to the writ petition, had allowed the claim of mutation of the name of the petitioner with respect to 13 bigha, 15 kathas and 15 ½ dhurs of lands. However, the respondent no.6 claiming only 2 plots filed Mutation Appeal No. 06 of 1999-2000, which was allowed by the impugned appellate order dated 12.01.2000 (Annexure-2) and entire order passed by the Circle Officer, Dighwara was set aside. It is further contended that the mutation revision case filed on behalf of the petitioner has been dismissed by the revisional authority without considering the case of the parties and by a non-speaking and cryptic order. Therefore, according to him, the impugned appellate order as also revisional order are fit to be set aside by this Court.

5. Per contra, the learned State counsel appearing on behalf of the respondent nos. 1 to 5 and the learned counsel appearing on behalf of the respondent nos. 6 to 8 have contested the matter and have submitted that the claim of mutation raised on behalf of the petitioner was wrongly allowed by the Circle Officer, Dighwara, even with respect to the lands which do not belong to her, rather it belongs to Railways. They further contended that the appellate authority has given good reasons for setting aside the order passed by the Circle Officer, Dighwara and the same has been affirmed by the revisional authority. Therefore, according to them, the writ petition is fit to be dismissed.

6. After having heard the parties and taking into consideration the materials available on the record, this Court is of the opinion that the entire matters require reconsideration and a fresh decision right from very beginning. Though, it is true that by order dated 10.07.1999 the claim of mutation raised on behalf of



the petitioner was allowed by the respondent Circle Officer, Dighwara, but before passing the aforesaid order, the parties were not heard and all the relevant materials have not been taken into consideration. It is equally true that though, the revisional authority has affirmed the appellate order by the impugned revisional order dated 03.09.2008, but the case of the parties have not been properly considered. In fact, the impugned revisional order is non-speaking and cryptic order. In above view of the matter, the orders passed by the revenue authorities with respect to lands in question cannot be sustained.

7. For the reasons recorded above, the impugned revisional order dated 03.09.2008 passed in Mutation Revision Case No. 64 of 2001 by the respondent District Collector, Saran (Chapra), as contained in Annexure-1, the impugned original order dated 10.07.1999 passed in Mutation Case No. 387 of 1998-99 by the respondent Anchal Adhikari, Dighwara, as contained in Annexure-4, as also the impugned appellate order dated 12.01.2000 passed in Mutation Appeal No. 6 of 1999-2000 by the respondent DCLR, Sonapur, as contained in Annexure-2 to the writ petition, are hereby set aside and quashed, and the entire matter is remitted back to the respondent Circle Officer, Dighwara, Saran with a direction to decide the claim of mutation of the parties with respect to the lands in question afresh strictly in accordance with the provision of The Bihar Land Mutation Act, 2011 and the Rules made thereunder. However, before passing any final order, the respondent Circle Officer, Dighwara shall be obliged to give an opportunity of hearing to all concerned including the petitioner and private respondent nos. 6 to 8, besides others, if any.



8. 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 respondent Circle Officer, Dighwara, Saran.

9. In order to expedite the matter, the petitioner as also the respondent nos. 6 to 8 are directed to appear before the respondent Circle Officer, Dighwara, Saran within a period of one month from today with a certified copy of the present order, whereafter the matter shall be decided afresh at an early date.

10. In the result, 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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