

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9510 of 2010

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Surya Nath Singh S/O Late Ram Ayodhya Mahto R/O Vill.- Pakariabar,
P.S.-Udwanthnagar, Distt.- Bhojpur At Arrah

.... Petitioner

Versus

1. The State Of Bihar through the Collector, Bhojpur, Ara
2. Deputy Collector, Land Reforms, Sadar, Arrah, Distt.- Ara
3. Circle Officer, Udwanthnagar
4. Shatrudhan Prasad S/O Late Ram Kishan Mahto
5. Bharat Prasad S/O Late Ram Kishan Mahto
6. Jeera Kunwar W/O Late Jawahar Prasad
7. Shyamjee Prasad S/O Late Jawahar Prasad
8. Ratna Kunwar W/O Late Umesh Prasad
9. Chandan Kumar @ Guddu, Minor Of Late Umesh Prasad
All R/O Vill.- Nawada, P.S.- Arrah Nawada, Distt.- Bhojpur At Arrah

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh
Mr. Arbind Kr. Verma
For Respondent No. 1 to 3 Mr. Sunil Kumar, AC to GP 11
For Respondent No. 4 to 9 Mr. Aditya Nr. Singh No. 1
Mr. Ramakant Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

9 17-07-2017 1. Heard learned counsel for the petitioner as well as
learned counsel appearing for the private respondents.

2. It is an admitted position that disputed plots were jointly purchased by Ram Ayodhya Mahto and Ram Kishun Mahto. The aforesaid purchaser Ram Ayodhya Mahto happens to be father of petitioner whereas second purchaser, namely, Ram Kishun Mahto happens to be father of private respondents no. 4 and 5 but after purchase, jamabandi of the aforesaid plot was



opened only in the name of Ram Ayodhya Mahto. However, after death of Ram Ayodhya Mahto, the petitioner applied for mutation of his name in place of his father and vide order dated 16.03.1996 passed in Mutation Case No. 616/95-96, the name of Ram Ayodhya Mahto was deleted and the name of petitioner was entered. Furthermore, it would appear from the Annexure-3 to the petition that when the private respondents got information regarding the aforesaid modification of entry of revisional survey khatian, they filed mutation appeal bearing Mutation Appeal No. 33 of 2001-02 before the D.C.L.R, Sadar Ara. The aforesaid Mutation Appeal No. 33/2001-02 was rejected by the D.C.L.R, Sadar, Bhojpur holding that the aforesaid Mutation Appeal No. 33/2001-02 was barred by the limitation. However, the aforesaid order of D.C.L.R, Sadar, Bhojpur was challenged before the Collector, Bhojpur in Mutation Revision No. 25/2007-08 which was allowed by the learned Collector vide impugned order dated 16.10.2009 on the ground that purchased lands were subsequently partitioned by the original purchasers and accordingly, disputed lands were fell in the share of Ram Kishun Mahto and again the disputed lands were partitioned by the heirs of aforesaid Ram Kishun Mahto. The learned Collector also found that the name of Ram Kishun Mahto was entered in revisional survey khatian and



in consolidation proceeding, chak of the disputed plots was allotted to Ram Kishun Mahto and the learned Collector set aside the order of D.C.L.R. on the ground that the petitioner was not in possession of the disputed lands and accordingly, the Collector directed to enter the name of private respondents in revenue records.

3. Learned counsel appearing for the petitioner submits that title suit bearing Title Suit No. 380 of 2008 has been filed by the petitioner for declaration of his right title and possession in respect of the disputed lands and the aforesaid title suit is still pending and therefore, the order of Collector be stayed till disposal of above stated Title Suit No. 380 of 2008. He further submitted that the Collector, Ara passed the impugned order on misconception that the petitioner was not in possession of the disputed land and moreover, the Collector had got no right to decide the right, title and possession of the parties in respect of the disputed lands.

4. On the other hand, learned counsel appearing for the private respondents refuted the above stated submissions arguing that learned Collector has rightly passed the impugned order and there is nothing in the impugned order on the basis of which this court could interfere into the impugned order.



5. It would appear from perusal of order of learned D.C.L.R, Sadar Ara that the D.C.L.R. rejected the prayer of private respondents on the ground that the private respondents filed petition for rectification of the entry made in revenue records after much delay but learned Collector did not take note of the aforesaid fact nor gave any finding regarding the aforesaid delay in filing the correction petition. Moreover, the learned Collector passed the impugned order only on the ground that private respondents were in possession of the lands in question and while making the aforesaid observation, the learned Collector failed to take note of this fact that possession of one co-owner is possession of other co-owner and, therefore, in the aforesaid circumstance, the order dated 16.10.2009 passed by the Collector, Bhojpur at Ara in Mutation Revision No. 25/2007-08 is, hereby, set aside and the matter is sent back to the Collector, Bhojpur at Ara for passing fresh order in accordance with law.

(Hemant Kumar Srivastava, J)

SHAHZAD/-

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