

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.28 of 2017

IN

Civil Writ Jurisdiction Case No. 4586 of 2005

=====

Syed Abdur Rahman @ Sajed Abdur Rahman @ Abdul Rahman, Son of Late
Khan Bahadur Abdus Samad, resident of Boring Road, Near Montesari School, P.S.
Sri Krishna Puri, District - Patna

.... Respondent / Appellant/s

Versus

1. Kamru Yadav, Son of Late Rit Lal Yadav,
2. Mohril Yadav, Son of Late Kameshwr @ Commission Yadav, Both resident of
Mohalla - Babu Tola, P.S. Bnka, District - Banka
3. Padma Devi, Wife of Late Chamru Yadav,
4. Laddu Yadav, Son of Late Chamru Yadav,
5. Sanjay Yadav, Son of Late Chamru Yadav,
6. Ajay Yadav, Son of Late Chamru Yadav,
7. Bala Devi, Daughter of Late Chamru Yadav,
8. Dhanwati Devi, daughte of Late Chamru Yadav, All resident of Mohalla - Babu
Tola, P.S. Banka, District - Banka
9. The State of Bihar
10. The Collector, Banka, Distict - Banka
11. The Deputy Collector Land Reforms, (D C L R), Banka
12. The Circle Officer, Banka, District Banka

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ravindra Kr Sinha No.2

For the Respondent/s : Mr. Md. Khurshid Alam, AAG12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-01-2018

Seeking exception to an order passed by the learned Writ



Court on 03.10.2016 in CWJC No. 4586 of 2015 this appeal has been frilled under Clause 10 of the Letters Patent.

Having heard learned counsel for the parties, we find that the writ petition in question was filed by the respondents in this appeal, namely, Shri Kamru Yadav & Others and it was their grievance in the writ petition that in a proceeding for mutation held in Mutation Case No. 17 of 1991-92 dismissed by the Anchal Adhikari, Banka and the order was passed on 12.02.1992. Aggrieved by this order passed by the Anchal Adhikari, Chamru Yadav and others who were respondent nos. 6 in the writ petition filed appeal before the appellate authority being Mutation Appeal No. 25 of 1994-95 and it was their grievance in the appeal that the original order by the Anchal Adhikari has been passed in violation of the principles of natural justice and without granting him opportunity of hearing to Chamru Yadav and others. The Mutation Appal was finally heard on 16.2.2004, the appellate authority set aside the order of mutation and the order of the Anchal Adhikari, Banka on account of the principles of natural justice and the statutory rules contained in the Bihar Tenants Holding Maintenance of Records, 1973 and remitted the matter back to the Circle Officer for re-determination. However, against this order of the appellate authority a revision was filed and in the revision the revisional authority has gone into the



merits of the matter and decided the case of the mutation including the question of possession of title.

The learned Writ Court taking note of the aforesaid facts found that once the appellate authority has ordered for determination and remanded the matter to the Circle Officer the appeal filed by the respondents in violation of the principles of natural justice in the revision petition the revisional authority should not have interfered and therefore remanded back the matter to the Anchal Adhikari to proceed in accordance with law and decide the mutation proceedings afresh.

Learned counsel for the parties have vehemently argued that once the revisional authority has interfered into the matter on merit it was not necessary to remand the matter back to the Anchal Adhikari. In our considered view, we cannot accept the aforesaid contention, that revisional authority in exercise of its limited jurisdiction should not have gone into the merits of the matter when the appellate authority and the original authority had not done so. The revisional authority by doing so has not only acceded its jurisdiction but has decided the issue on merit thereby taking away the right of appeal available to the aggrieved persons.

Accordingly, we find that the learned Writ Court has not committed any error in remanding the matter for reconsideration.



The appeal is devoid of merit and is therefore dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.01.2018
Transmission Date	

