

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4543 of 2018

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Md. Khaliquezzamma Ansari, Son of Late Israil Ansari, Resident of Mohalla-
Rampara- Sulemanganj, Katihar, Police Station and District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Collector, Katihar.
2. The Bihar Land Tribunal, Patna through Registrar of the Bihar Land Tribunal,
11-OFF Polo Road, P.S. Airport, District Patna.
3. The Anchal Adhikari, Katihar within the district of Katihar.
4. Shri Ram Chandra Mahto, Son of Late Mohan Mahto, Resident of Mohalla-
Bara Bazar, Katihar, P.O.- Barabazar, District- Katihar and at present at
Salempur Jaisen @ Jhikti, Police Station- Kurhni, District- Muzaffarpur.
5. Md. Sabir Ansari @ Sabir Ahmad, Son of Mutalim Ansari, Resident of
Mohalla- Rasulpur, D.S. College Road, Katihar, P.O.- Bara Bazar, District-
Katihar.
6. Smt. Geeta Devi, Wife of Uma Nath Mahto and Daughter in law of Shri Ram
Chandra Mahto, Resident of Village- Churipatti Bara Bazar, Katihar, Police
Station and Anchal- Katihar, District- Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Prasad Ambastha
For the Respondent/s	:	Mr. Subhash Chandra Yadav -Gp15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 10-09-2018

Heard Mr. Arun Prasad Ambastha, the learned counsel for
the petitioner and the learned counsel for the State.

2. The petitioner filed this writ petition for the following
reliefs:

(a) For setting aside the order dated 05.08.2016
(Annexure-9), passed by the Member (Administrative) of the Bihar
Land Tribunal, Patna in B.L.T. Case No.97 of 2015 by which the
order of mutation passed by Anchaladhikari and affirmed by the



appellant and revisional court mutating the name of the petitioner has been set aside.

(b) For an order of stay of operation of the impugned order dated 05.08.2016 (Annexure-9) till the disposal of this application.

(c) For any other relief or reliefs as deemed fit and proper in the interest of justice.

3. The factual matrix of the case is that respondent no.4, Shri Ram Chandra Mahto contracted to sell the land in question to the petitioner for Rs.1,00,000/-. Shri Ram Chandra Mahto received Rs.50,000/- on 26.09.2010 and executed a deed of agreement to sell acknowledging the receipt of Rs.50,000/- as earnest money duly witnessed by his son, Dinanath Mahto. Shri Ram Chandra Mahto received the remaining consideration amount through Sabir Ahmad, respondent no.5 and on such respondent no.4 executed a deed of power of attorney and got the same registered on 08.11.2010 after receiving the entire consideration amount but the respondent no.4 did not execute the sale deed. The petitioner filed Title Suit No.18 of 2011 against respondent no.4 for Specific Performance of Contract. The respondent no.4 after having received summon instructed respondent no.5, the power of attorney holder, to execute the sale deed. Accordingly, the sale deed was executed on 05.12.2011 and 08.12.2011. The petitioner came in possession of the land and filed Mutation Case No.3880 of 2011-12 but Geeta Devi, the daughter-in-



law of respondent no.4 raised objection even then the Circle Officer, Katihar mutated the name of the petitioner on 07.01.2012. Geeta Devi filed mutation appeal and revision but the appeal and revision were dismissed upholding the order of mutation. Respondent no.4 filed petition before the Bihar Land Tribunal against the order of mutation by filing B.L.T. Case No.97 of 2015 and the Member (Administrative), Bihar Land Tribunal after hearing both the sides set aside the order of the mutation mutating the name of the petitioner vide order dated 05.08.2016. Being aggrieved the petitioner filed this writ petition.

4. The learned counsel for the petitioner submits that the power of attorney holder of respondent no.4 executed the sale deed on 05.12.2011 and 08.12.2011 on behalf of respondent no.4. The Circle Officer, Katihar perused the report of the *Halka Karamchari* and found the transfer of title complete and ordered for mutating the name of the petitioner but the Member (Administrative), Bihar Land Tribunal illegally set aside the order of the mutation holding that Sabir Ahmad had no power of attorney on the date of execution of the sale deed and, therefore, no title was transferred on the basis of the sale deed executed by Sabir Ahmad, the respondent no.5, and held the power of attorney forged and fabricated said to have executed by respondent no.4, Shri Ram Chandra Mahto. Respondent no.4 has already communicated the court that the alleged power of



attorney has been cancelled by respondent no.4 by registered deed and thereafter respondent no.5 executed the sale deed in favour of the petitioner but thereafter the petitioner filed title suit which is pending. The criteria for mutating the name of the transferee is the transfer of the title of a person to another person on the basis of any mode of transfer. The sale deed was executed by such a person who did not have any power of attorney on behalf of respondent no.4 and even on the date of execution of the sale deed, the power of attorney, which is said to have been forged and fabricated, has been cancelled by a registered deed, therefore, I find that the Member (Administrative), Bihar Land Tribunal has rightly set aside the order of the mutation mutating the name of the petitioner by the Circle Officer along with the order of the appellate authority and revisional authority confirming the order of the Circle Officer.

5. Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2018
Transmission Date	NA

