

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13145 of 2015

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1. Md. Fakhruddin S/o Late Jainuddin
2. Md. Ashfaq uddin S/o Late Jainuddin resident of Mohallah Sanchi
Patti Chakshah Abdul Hai P.O. Hajipur P.S. Hajipur Town District
Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Hajipur, Vaishali.
3. The Additional Collector, Hajipur, Vaishali.
4. The Circle Officer, Hajipur, Vaishali.
5. Abdul Khalique S/o Late Sheikh Md. Jan, resident of village Baghmali
P.O. Hajipur P.S. Hajipur Town, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anisur Rahman
For the Respondent/s : Mr. Tripurari Nath Ambastha
Mr. Ratna Deep Prasad

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 31-08-2018 Heard learned counsel for the petitioners, learned counsel

for the respondent No.5 and learned counsel for the State-

respondents.

The petitioners have filed this writ petition for quashing
the order dated 20.06.2014 passed by the Circle Officer, Hajipur in
Mutation Case No.1345 of 2014-15 by which the Circle Officer
mutated the name of Abdul Khalique, respondent No.5 in the
record of right with regard to the lands of Khata No.214, Khesra
No.1222, 1223, 1224, 1189, 1190, 1197, 1225, 1210, 1211, 1212,
1213, 1215, 1205.



Learned counsel for the petitioner submits that respondent No.5 filed petition for mutation of his name with regard to the lands mentioned above but without giving any notice to the petitioners, in whose name the Jamabandi was standing, the name of respondent no.5 was mutated, therefore, the order is illegal.

On the other hand, learned counsel for the respondent No.5 submits that the petitioner has got alternative remedy by way of appeal and revision but the petitioner straightway came to this Court against the order of mutation passed by the Circle Officer.

The Circle Officer, Hajipur was called upon with the records in order to show that whether any notice was served on the petitioners. It appears that notice was given to the petitioners fixing the date on 10.05.2014 vide order dated 30.04.2014. There appeared interpolation in the order and the next date was fixed on 20.05.2014. On 20.05.2014, the ordersheet shows that Md. Fakhruddin and Md. Ashfaque uddin were present and prayed for time but no attendance of the petitioners was filed. The petitioners have denied to have appeared before the Court of Circle Officer on 20.05.2014. Admittedly, the land was standing in the name of the petitioners and on the petition of respondent No.5, without giving notice to the petitioners, the Circle Officer mutated the name of



respondent No.5 with regard to the lands. Therefore, I find that the order is illegal and not sustainable. Accordingly, the order dated 20.06.2014 passed in Mutation Case No.1345 of 2014-15 is set aside and the matter is remitted to the court of Circle Officer to pass order afresh in accordance with law after hearing both the parties.

Accordingly, this writ petition is allowed.

The personal appearance of the Circle Officer, Hajipur is dispensed with.

(Prabhat Kumar Jha, J)

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