

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3486 of 2019

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1. Sukhnandan Sah, S/o Late Jamuna Pd Sah,
 2. Santosh Kumar S/o Late Sitaram Sah,
 3. Manoj Kumar S/o Late Sitaram Sah,
 4. Shivjee Sah S/o Late Lala Sah,
 5. Most. Vijaya Lakshmi Devi W/o Late Ram Nath Sah
 6. Vikash Kumar S/o Late Ram Nath Sah
 7. Suman Kumar S/o Late Ramnath Sah
All are resident of Vill.-Mahua, Singrai, P.s.-Mahua, Distt.-Vaishali
 8. Pratima Devi, D/o Ramnath Sah, Wife of Manibhushan Kumar @ Ranjeet Kumar, resident of Vill.-Chakia, P.s.-Chakia, Distt.-East Champaran
 9. Urmila Devi, W/o Ganesh Sah, D/o Late Mahesh Sah, at present resident of Village- Teknari, P.s.-Patepur, Distt.-Vaishali
 10. Ram Shankar Sah, S/o Late Lala Sah, Vill.-Mahua Singrai, P.s.-Mahua, Distt.-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Revenue Dept., Govt. of Bihar, Old Secretariat, Patna
2. The Hon'ble Chairman, Bihar Land Tribunal, Patna
3. The Collector, Vaishali at Hajipur, Distt.-Vaishali
4. The Additional Collector Vaishali at Hajipur, Distt.-Vaishali
5. The Deputy Collector, Land Reforms, Mahua, Distt.-Vaishali
6. The Circle Officer, Mahua, Distt.-Vaishali
7. Vijay Kumar, S/o Late Baleshwar Sah
8. Awadhesh Kumar, S/o Baleshwar Sah
9. Shobha Devi, D/o Late Baleshwar Sah
10. Rekha Devi, D/o Late Baleshwar Sah
11. Most. Shakuntala Devi, W/o Late Baleshwar Sah
12. Shakuntala Devi, W/o Mundrika Sah, D/o Late Mahesh Prasad,
13. Parshuram Sah, S/o Late Jamun Sah
7-11 are resident of Vill.-Mahua Singrai, P.O. and P.s.- Mahua, Distt.-Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Thakur Mr.Bijoy Kant Mishra
For the Respondent/s	:	Mr.Raj Kishore Roy (Gp18)



CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 26-02-2019 Law of mutation of land in the State of Bihar is governed by the Bihar Land Mutation Act, 2011 (hereinafter referred to as 'the Act'), Section 2 (1) whereof define 'mutation' as alteration in the entries in the continuous khatian, tenants' ledger and khesra register on account of transfer of right of a person in a holding or a part thereof by way of either of the events, as mentioned therein, including partition of holding. Sections 3, 4 and 5 of the Act deal with filing of petition for mutation, intimation to the Circle Officer regarding acquisition of interest of any person in any holding or part thereof and enquiry and report in mutation cases. Section 6 of the Act deals with disposal of mutation cases, sub-Section (11) of which clearly states that mutation claimed on the basis of partition other than by the court or registered deed, shall not be allowed unless there is consent for partition by all co-sharers.

In the present case, the petitioners have put to challenge an order, dated 19.07.2018, passed, in B.L.T. Case No. 391 of 2017, by the learned Chairman, Bihar Land Tribunal, whereby, taking note of Section 6 (11) of the Act, disposed of the case with the direction to get their disputes adjudicated before the competent civil court.



There appears to be a typographical mistake in the impugned order which refers to Section 6 (12) of the Act instead of Section 6 (11) of the Act.

The dispute relates to mutation of names in respect of the family property of one Late Jamuna Prasad Sah, the common ancestor of the parties. It was the case of the petitioners that the family properties had been purchased in different names of the co-sharers, but out of the same joint family fund. There was amicable partition among the descendants of Late Jamuna Prasad Sah. Based on the said amicable partition, the petitioners had applied for mutation of their names in respect of the property said to have been allotted in their shares. The Circle Officer had ordered for mutation/creation of separate jamabandi in the respective names of the petitioners as well as the co-sharers. The Circle Officer had issued corrected jamabandi in the names of the parties. Aggrieved by the said decision of the Circle officer, the private respondents herein approached the Deputy Collector Land Reforms by filing appeal, which was dismissed. A revision petition was thereafter filed, which was allowed by the Additional Collector, Land Reforms, Vaishali, by his order, dated 20.10.2017. Being aggrieved, the petitioners approached



the Bihar Land Tribunal. The Tribunal, by the impugned order, after noticing nature of dispute between the parties has disposed of the case, with a direction to the parties to get their disputes adjudicated before competent civil court in accordance with law. The Tribunal has specifically recorded that rival claims of the mutation raised by the parties over the family property and the property in question shall be abide by the final decree, which may be passed by the competent court.

Mr. Surendra Kumar Thakur, learned Counsel appearing on behalf of the petitioners, has submitted that the Tribunal ought to have interfered with the decision of the revisional authority whereby two orders recording concurrent findings came to be reversed.

In my view, the impugned decision of the Tribunal is in consonance with the intent of Section 6 (11) of the Act. Section 6 (11) of the Act prohibits mutation claimed on the basis of partition other than by the court or registered deed, unless there is consent for partition by all co-sharers. The use of the word 'shall', in Section 6 (11) of the Act, makes the legislative intent clear, i.e. the said requirement under Section 6 (11) of the Act is mandatory. In my view, therefore, the Tribunal's order does not require interference.



This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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