

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9850 of 2019

=====

Suresh Prasad Singh @ Bhushan Prasad Singh Son of Late Ram Balak Singh
Resident of Village-Ishakpur, P.O.-Mahnar, P.S.-Mahnar, District-Vaishali at
Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department Government of Bihar, Patna.
2. The Collector, Vaishali at Hajipur, District-Vaishali at Hajipur
3. The Additional Collector, Vaishali at Hajipur District-Vaishali at Hajipur.
4. The Deputy Collector Land Reforms, Mahnar, District-Vaishali at Hajipur.
5. The Circle Officer, Mahnar, District-Vaishali at Hajipur.
6. Brajesh Kumar Singh Son of Sonelal Singh Resident of village-Ishakpur, P.O. Mahnar, P.S. Mahnar, District-Vaishali at Hajipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Najmul Hoda Mr. Uday Prakash Shharma
For the State	:	Mr. Subash Chandra Yadav (GP-15) Ms. Sangha Mitra Ghosh Mr. Abhishek

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 02-05-2019 Though, this matter has been listed under the heading “For Orders (On Office Notes)” with certain defects, as pointed out by the Stamp Reporter, keeping in mind the nature of dispute, ignoring the said defects, I have heard Mr. Najmul Hoda, learned counsel for the petitioner, Ms. Sangha Mitra Ghosh, AC to GP-15 and Mr. Abhishek, learned Advocate for respondent no.6 on merits and disposing it of by the present order.



An order dated 06.11.2018, passed by the learned Member(Administrative), Bihar Land Tribunal, Patna in B.L.T. Case No. 373 of 2017 has been put to challenge in the present writ application, whereby he has dismissed an application filed by the petitioner against the order dated 14.01.2017, passed by the learned Additional Collector, Vaishali in Mutation Revision Case No. 50 of 2016-17. It is manifest from the materials on record that by the said order dated 14.01.2017, passed in Mutation Revision Case No. 50 of 2016-17, the Additional Collector has affirmed the order passed by the Deputy Collector Land Reforms, Mahnar in Appeal No.29 of 2015-16 as well as the order dated 11.10.2018, passed by the Circle Officer, Mahnar in Mutation Case No.2543 of 2006-07.

The land pertains to R.S. Plot No. 449 of Khata No. 397, admeasuring 17 decimal of the village Ishakpur under Mahnar Anchal of Vaishali district, which was carved out from the portion of the Cadastral Survey Plot No.253, which was purchased in the name of the petitioner.

It is the case of the petitioner that the said land was purchased in his name by his mother from the money given by maternal grandfather at the time of his birth, whereafter he came in possession. It is his further case that after vesting of



Zamindari, the land was mutated in his name, but in 2011 he learnt that some mischief has been done in respect of the *Jamabandi*. It was his further case that when the records were demanded from the Circle Officer, the same were found to be traceless. The petitioner, thereafter, filed an appeal before the Deputy Collector Land Reforms, Mahnar, giving rise to Appeal No. 29 of 2015-16. Respondent no.6 therein, who appeared before the appellate court of the Deputy Collector Land Reforms, took a plea that the land, in question, was purchased by his father in his name from the joint fund. After the private partition in the family, his name was mutated in terms of Jamabandi Batwara Case No. 2561 of 2006-07. It seems from the order impugned that a plea was taken on behalf of respondent no.6 herein that the land, in question, was purchased by his father in the name of the petitioner, who was minor and his father had died leaving behind the petitioner, his brother and mother. It was asserted that after partition of 1972, some of the lands, which were recorded in the name of the father of respondent no.6, were allotted to the petitioner in the partition, which were sold by him in 1975 and the register indicated the north boundary of the vended plot as that of Sonelal Singh, father of respondent no.6. He had specifically taken a plea that



his name was mutated in Mutation Case No. 2543 of 2006-07 by the Circle Officer, Mahnar, Vaishali.

This is not in dispute that the petitioner has filed a suit for partition, which is pending, in which the father of respondent no.6 has denied the claim of the petitioner regarding the jointness and has stated that the land, in question, has been allotted to him in the family partition.

Mr. Najmul Hoda, learned counsel for the petitioner has submitted, referring to the case of respondent no.6, as noted by the learned Member (Administrative) of the Tribunal, to the effect that the land, in question, was purchased by his father in the name of the petitioner, that the same ought not to have been accepted, being hit by the provisions of Benami Transactions (Prohibition) Act, 1988.

I fail to understand the purpose for which the submission has been advanced. The entire dispute revolves around the question of title in respect of the land in question. The nature of dispute, which the petitioner has attempted to raise, can be very well raised by him and got adjudicated in the title suit, which he has filed.

It appears from the orders passed in Mutation Revision Case No. 50 of 2016-17 that the Halka Karamchari,



the Circle Inspector and the Circle Officer have confirmed the factum of possession of respondent no.6 over the disputed land.

In my opinion, the writ proceeding under Article 226 of the Constitution of India is not appropriate forum for the petitioner to raise the disputed questions of facts, which can be agitated before the civil court of competent jurisdiction. The impugned order of the Member (Administrative), passed in B.L.T. Case No. 373 of 2017 does not require interference, since the learned Member (Administrative) of the Tribunal has not only taken note of the materials on record, but has discussed the decision and the order passed by the authorities before recording his conclusion and dismissing the application.

It is true that the learned Member (Administrative) of the Tribunal has recorded his finding in paragraph 6 of the impugned order that the father of respondent no.6 is in possession over the disputed land since 1972. However, at the same time, he has recorded in his concluding paragraph that the decision of the Civil Court, Vaishali in T.S. No. 48 of 2014 will apply in respect of the right and title.

In the aforementioned circumstance, without interfering with the impugned decision of the learned Member (Administrative) of the Tribunal, it is observed that any finding



recorded, either by the revenue court, or the Member (Administrative) of the Tribunal, shall not prejudice the case of the respective parties in the title suit, which is pending, and the decision of the Civil Court in the said title suit, shall govern the right and title of the respective parties.

I must take note of sub- section (12) of Section 6 of the Bihar Land Mutation Act, 2011, which prohibits the mutation of a holding or a part thereof in cases in which Title Suit with regard to that holding or a part thereof is pending in the competent court.

I therefore, do not find any merit in this writ application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

HR/-

U			
---	--	--	--

