

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9447 of 2019

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Sanjay Kumar Singh Son of Late Hari Rai Resident of Village- Gori, P.S.-
Karagahar, District- Rohtas (Sasaram)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Collector Rohtas, Sasaram.
3. The Deputy Collector Land Reforms, Sasaram, District- Rohtas.
4. The Circle Officer Karagahar, District- Rohtas.
5. Bajrang Kumar Singh (Minor) Son of Krishna Singh Resident of Village-
Amtha, P.O.- Alampur, P.S.- Sheosagar, District- Rohtas.
6. Ashok Kumar Rai Son of Late Hari Rai Resident of Village- Gori, P.O.-
Gori, P.S.- Karagahar, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Sr. Advocate Mr. Subhash Kumar Tiwari
For the Respondent/s	:	Mr. Subash Chandra Yadav (GP15) Mr. Sangha Mitra Ghosh, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 10-05-2019 Heard learned counsel for the parties.

Learned Senior Counsel, appearing on behalf of the petitioner, has submitted that the petitioner and the respondent no. 6 are own brothers, sons of Hari Rai, who died in 2003. After his death, the land held by late Hari Rai came to be mutated in their joint names. His brother Ashok Kumar Rai, respondent no. 6, is said to have executed a sale deed on 27.06.2014, in favour of respondent no. 5, based on which, the Circle Officer allowed the mutation in favour of respondent no.



5, without issuing notice to the petitioner. An appeal before the Deputy Collector Land Reforms, Sasaram against the order of the Circle Officer, Karagahar, was allowed. A revision application was thereafter preferred, which reversed the order of the Deputy Collector Land Reforms, Sasaram, and confirmed the order of the Circle Officer, Karagahar. The mater, thereafter, travelled to the Bihar Land Tribunal Patna, giving rise to B.L.T. Case No. 283 of 2018, at the instance of the petitioner, which has been dismissed by the impugned order passed by the learned Member (Administration) of the Tribunal.

Learned Senior Counsel, appearing on behalf of the petitioner, has submitted that the respondent no. 6, could not have alienated entire property, which was jointly inherited by them from father of the petitioner and respondent no. 6. He submits that in any view of the matter, the Circle Office, Karagahar, ought not to have passed any order in mutation proceeding, without issuing notice to the petitioner.

I have carefully perused the impugned order passed by the learned Member (Administration) of the Tribunal. He has taken note of the order of the Circle Officer, Karagahar, and the mutation proceeding before him. The Circle Officer, Karagahar, appears to have recorded service of notice of *jamabandi* case



and general notice on 08.03.2016. The Circle Officer, Karagahar, has also recorded possession of respondent no. 5 over the land subject matter of dispute, in his order.

Learned Member (Administration) of the Tribunal has also viewed in the impugned order that the validity of the sale deed could have been questioned by the petitioner in appropriate proceeding.

In response to a query made by this Court, learned Senior Counsel for the petitioner informs this Court that a title suit has been filed for setting aside the sale deed, dated 27.06.2014, which is pending. He also submits that the petitioner is still in possession over the land, in question.

Be that as it may, since a title suit is pending, seeking various reliefs, including setting aside of the sale deed which at the core of the dispute, the mutation proceeding though travelled up to the stage of the Bihar Land Tribunal, has lost its significance, completely. The question, as to whether respondent no. 6 could have executed the sale deed or not, in favour of the respondent no. 5, in respect of the land which was subject matter of mutation proceeding, can be thrashed and adjudicated by the court, where the title suit is pending.

In view of the above, this application is disposed of



with the observation that any finding or observation recorded in the mutation proceeding up to the Bihar Land Tribunal in the impugned order, shall not prejudice either of the parties in the proceeding before the court below in the title suit, which the petitioner has filed.

(Chakradhari Sharan Singh, J.)

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