

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15931 of 2013

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1. Most. Devanti Devi and Ors W/O Late Krishna Mahto Resident Of Mohalla- Sandalpur, P.S.- Sultanganj, A/P P.S.- Bahadurpur, Post- Mahendru, Distt.- Patna
 2. Umesh Kumar Son Of Late Krishna Mahto Resident Of Mohalla- Sandalpur, P.S.- Sultanganj, A/P P.S.- Bahadurpur, Post- Mahendru, Distt.- Patna
 3. Ramesh Kumar Son Of Late Krishna Mahto Resident Of Mohalla- Sandalpur, P.S.- Sultanganj, A/P P.S.- Bahadurpur, Post- Mahendru, Distt.- Patna
 4. Mukesh Kumar Son Of Late Krishna Mahto Resident Of Mohalla- Sandalpur, P.S.- Sultanganj, A/P P.S.- Bahadurpur, Post- Mahendru, Distt.- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Patna
3. The D.C.L.R. Patna City, Patna
4. The Circle Officer, Anchal Patna Sadar, Patna
5. The Circle Inspector Anchal Patna Sadar, Patna
6. The Renewal Karamchari Of Halka No.- 4, Anchal Patna Sadar, Patna
7. Ramdeo Prasad S/O Dashrath Mahto Resident Of Mohalla- Chhoti Nagla, Jamunapur, Patna City, P.S.- Malsalami, P.O.- Madhav Mills, Distt.- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 22-07-2019 Heard learned counsel for the petitioners.

2. Notice was issued to the contesting respondent No.7, who has entered appearance by filing Vaklatnama. There is no counter affidavit, however, there on record filed on his behalf. Despite order of this Court dated 29.01.2014, whereby a comprehensive counter affidavit was required to be filed, the State of Bihar, as usual, has not been any counter



affidavit, nor there is no representation on behalf of the State of Bihar.

3. The facts asserted in the writ application thus, stand uncontroverted and accordingly this writ application is being disposed of based on averments made in the writ application.

4. It is the petitioners' case that the land bearing Khata No. 59, Khesra No.338, Area 15 decimal situate at Mauza Sandalpur, Revenue Thana No.11 in the District of Patna originally belonged to one faudar Mahto alias Padarath Maghto, which was got partitioned in the year 1950 between Mahavir Mahto and Sugriv Mahto, both sons of said Faudar Mahto. It is also the case of the petitioners that ever since vesting of Zamindari Sirista, Mahabir Mahto and Sugriv Mahto were recorded in the circle Office Anchal, Patna Sadar, Patna with regard to their respective share at Jamabandi No. 29/407 and Jamabandi No. 32/729. It has further been asserted that 15 decimal of land of Khesra No. 338 came in exclusive possession of Sugriv Mahto after mutual partition and after the death of Sugriv Mahto, his only son Krishana Mahto died and thereafter the petitioners, the widow and sons of said Krishna Mahto came over the exclusive possession over the same and got the names mutated in the Government Shirista and have been paying rent in their joint name *vide* Jamabandi No. 32/729. Respondent No.7 has been described as maternal grandson of late Mahavir Mahto. It is asserted in the writ application that Mahavir Mahto had three daughters only who inherited his property after his death and daughters got their names recorded in Jamabandi of Mahavir Mahto in 1950 after mutual partition. There is statement in paragraph 8 of the writ application that respondent No.7, who did not have any concern with Plot No. 338, acting in collusion with the authorities without any



documents or evidence got a favourable report of the Karamchari and the Circle Inspector in respect of half portion of the land of Plot No. 338 (7 and half decimal) in his favour. It appears that thereafter mutation case was filed by respondent No.7 giving rise to Mutation Case No. 7614/2011-12. The said mutation case has been disposed of in a Mega Lok Adalat held at Patna. It is the specific case of the petitioners that they did not have any notice in respect of the said mutation case, which was disposed of by the Circle Officer in the Mega Lok Adalat. Being aggrieved by the said order of the Circle Officer allowing Mutation case, the petitioners filed an appeal before the Deputy Collector Land Reforms, Patna City giving rise to Mutation Appeal No. 35 of 2011-12. The Deputy Collector Land Reforms has, however, dismissed the appeal by an order dated 12.04.2013. The said order dated 12.04.2013 and the order of the Circle Officer allowing mutation in favour of respondent No.7 have been challenged in the present writ application.

5. On perusal of the order of the Deputy Collector Land Reforms of Patna City, it is evident that he did not notice any document of compromise between the parties on record. However, he refused to interfere with the order of the Circle Officer, allowing mutation in favour of respondent No.7 since the same was done in a Mega Lok Adalat.

6. In view of the uncontroverted fact that the petitioners was not noticed in the mutation proceeding before the Circle Officer and there was no compromise available on record, the impugned order of the Circle Officer, allowing mutation application is unsustainable. The order of the Deputy Collector Land Reforms, Patna City dated 12.04.2013 also needs to be interfered with. Both the orders at Annexures-6 and 7 are, hereby, set



aside.

7. This application is allowed with a cost of Rs. 5,000/- (five thousand) each to be paid by the State of Bihar and Respondent No.7 to the petitioners.

(Chakradhari Sharan Singh, J)

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