

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7766 of 2006

1. (a) Shivanand Singh, Son of Late Yogendra Singh
1. (b) Subhash Singh, Son of Late Yogendra Singh
1. (c) Dayanand Singh, Son of Late Yogendra Singh
2. Rajeshwar Singh, Son of Late Ram Sewak Singh.
All are resident of Village-Chulhaichak, P.S.-Danapur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Patna
3. Deputy Collector Land Reforms (D.C.L.R.) Danapur, District-Patna.
4. Anchal Adhikari, Danapur, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 7798 of 2006

1. (a) Shivanand Singh, Son of Late Yogendra Singh
1. (b) Subhash Singh, Son of Late Yogendra Singh
1. (c) Dayanand Singh, Son of Late Yogendra Singh
2. Rajeshwar Singh, Son of Late Ram Sewak Singh.
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4. Anchal Adhikari, Danapur, Patna.

... .. Respondent 1st Set

5. Ram Bachan Singh, S/o Late Mewa Mahto, Resident of Village,
Chulhaichak, P.S.-Danapur, District-Patna.

... .. Respondent 2nd Set

Appearance :

(In Civil Writ Jurisdiction Case No. 7766 of 2006)

For the Petitioner/s	:	Mr. Sanjay Kumar
		Mr. Shyam Kumar Singh
For the Intervenor	:	Mr. Ajay Kumar Singh
For the Respondent no.6	:	Mr. Ratan Kumar Sinha
For the State	:	M.r Kameshwar Kumar, G.P.-17
		Mr. Arvind Kumar, AC to GP-17

(In Civil Writ Jurisdiction Case No. 7798 of 2006)

For the Petitioner/s	:	Mr. Sanjay Kumar
		Mr. Shyam Kumar Singh
For the Intervenor	:	Mr. Ajay Kumar Singh
For the Respondent no.6	:	Mr. Ratan Kumar Sinha
For the State	:	M.r Kameshwar Kumar, G.P.-17
		Mr. Arvind Kumar, AC to GP-17

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL JUDGMENT

Date : 16-05-2019

I.A. No. 06 of 2019 in C.W.J.C. No. 7798 of 2006 has been filed for expunction of name of Sita Kuwar, petitioner no. 1(a), who is said to have died during the pendency of this writ application, which is allowed in the absence of any objection being raised on behalf of the contesting respondents. Let the name of Sita Kuwar be expunged from the cause title of the writ applications.

2. In both the writ applications an order, dated 16.03.2006, passed by the Collector, Patna in Mutation Revision Case No. 06 of 1996-97, has been put to challenge and, therefore, the applications have been heard together and are being disposed of by present judgment and order.

3. I have heard learned counsel for the petitioners, learned counsel representing the State of Bihar, contesting private respondents as well as the intervenor-respondents.

4. The dispute relates to mutation, in respect of the land appertaining to *Khata* No. 341, 342, 391 and 777 of *Mauja* Dhanaut in Danapur *Anchal* of the District of Patna. The total area of land relating to *Khata* No. 341, 342, 391 and 777 is though 1.12 acre the dispute is, however, in respect of 77 decimal of land. The dispute is apparently between the two



branches of the common ancestor, Lakshmi Narain, who had two sons, namely, Bisheshwar Mahto and Chunni Mahto.

5. It is evident from the averments made in the writ application and other pleading, which are there on record that the original petitioners, grandsons of Mohan Mahto, had filed petition before the Circle Officer, Danapur, for mutation of their names consequent upon the death of Ram Kishun Mahto and Sarjug Mahto. The said mutation proceeding was decided in their favour by an order of the Circle Officer, Danapur, dated 25.10.1995, passed in a camp court. This is not in dispute that the successors in interest of Bishwambhar Mahto were not parties to the mutation proceeding before the Circle Officer, Danapur, and the order, dated 25.10.1995, was passed *ex parte*. An appeal was preferred thereafter by the grandsons of Bishwambhar Mahto, namely, Gauri Shankar Singh, before the Deputy Collector Land Reforms, Danapur, giving rise to Mutation Appeal Case No. 103 of 1995-96, which was dismissed by an order, dated 21.03.1996.

6. The Deputy Collector Land Reforms, Danapur, while dismissing the appeal, had noted elaborately, the respective cases of the contesting parties and after dealing with the materials, which were available before him, he recorded a



his finding to the effect that the appellants before him could not establish their claim in respect of the disputed lands.

7. It seems from the said order, dated 21.03.1996, that the Deputy Collector Land Reforms, Danapur, was conscious of the fact that the revenue courts were not competent to decide questions of title, but was of the view that question of possession had to be kept in mind, while deciding the mutation matter. On the question of possession, relying on the report of the Circle Inspector, to the effect that the disputed land was recorded in the name of father of petitioner nos. 1 and 2, held that there was no illegality in the order of the Circle Officer.

8. A revision petition was preferred before the Collector, Patna, giving rise to Mutation Revision Case No. 06 of 1996-97, assailing the order of the Deputy Collector Land Reforms, Patna, which came to be allowed by an order, dated 16.03.2006, passed by the Collector, Patna, which is impugned in the present writ applications.

9. The Collector, Patna has allowed the revision application taking into account the fact that in the mutation proceeding before the Circle Officer, Danapur, both the parties were not present and the decision was taken *ex parte*. He also took into account the fact that the Circle Inspector, also did not



conduct any on the spot inspection, on the point of actual possession of respective parties over the land, in question. It also appears from the order of the Collector, Patna, that in the wake of claim of both the parties over their possession, in respect of the disputed land, an inspection was directed to be conducted by the Circle Officer, Danapur. The Circle Officer, Danapur, in his report submitted pursuant thereto, appears to have recorded that the petitioners of the revision case had the possession over the dispute land. The Collector, Patna, in the aforesaid background thought it proper to interfere with the order of the appellate court of Deputy Collector Land Reforms, Danapur, and set aside the order(s) passed by the Circle Officer, Danapur and the Deputy Collector Land Reforms, Danapur.

10. Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioners in both the cases, has vehemently argued that the Deputy Collector Land Reforms, Danapur, while dismissing the appeal preferred by the contesting respondents, had taken into account all the relevant material aspects, referring to the documents and evidence produced on behalf of the rival parties before reaching a conclusion that there was no illegality in the order passed by the Circle Officer, Danapur. He has also submitted that the Deputy Collector Land Reforms, Danapur,



had, *inter alia*, taken into account the fact that the *jamabandi* was running in the name of ancestors/predecessors-in-interest of these petitioners and, therefore, decision of the Circle Officer, Danapur, did not suffer from any legal infirmity. He has argued that private contesting respondents have taken false plea to develop their case in this Court, in the present proceeding and they are, therefore, not entitled to be heard.

11. On perusal of the pleadings on record and the impugned order passed by the Collector, I find that dispute between the petitioners and the contesting respondents involves question of title, which can be adjudicated upon only by a civil court of competent jurisdiction. Both the parties are claiming their possession over the disputed land. The interference by the Collector, Patna, with the order of the Deputy Collector Land Reforms, Danapur, on the ground that the order of the Circle Officer, Danapur, was passed an *ex parte* and without any on the spot inspection, cannot be said to be wholly unjustified, requiring this Court's interference in exercise of power under Article 226 of the Constitution of India.

12. These writ applications are, accordingly, disposed of with the liberty to the parties to approach the civil court of competent jurisdiction by filing suit, seeking



appropriate relief(s).

13. It goes without saying that no finding recorded in the mutation proceeding shall prejudice the cases of the respective parties before the civil court, if any suit is filed, as the same is to be decided on the basis of pleadings and evidence adduced before the civil court. I further make it clear that no observation made in this order shall be treated to be an expression on the merits of the case on the point of title and possession over the land, in question, of the respective parties.

14. All interlocutory applications stand disposed of.

15. There shall be no order as to costs.

(Chakradhari Sharan Singh, J.)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	.05.2019
Transmission Date	N/A

