

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17044 of 2013

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Mahapati Devi W/O Shri Vishwanath Bhagat And D/O Late Brahmdeo Chaudhary @ Brahmdeo Bhagat Resident Of Village Narsanda, P.O- Kanti, P.S- Kanti, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector- Cum- District Magistrate, Muzaffarpur.
3. The Additional Collector, Muzaffarpur.
4. The Land Reforms Deputy Collector, Muzaffarpur West.
5. The Circle Officer, Kanti, Muzaffarpur.
6. Sandhya Devi W/O Jay Narayan Chaurasia Resident Of Village- Narsanda, P.O and P.S- Kanti, Muzaffarpur.
7. Indradeo Sah S/O Not Known, And H/O Asha Devi Resident Of Village- Dhamauli, Ramnath Tola- Sarmastpur, P.O- Kalwari, P.S- Kanti, Muzaffarpur.
8. Asha Devi W/O Indradeo Sah Resident Of Village- Dhamauli Ramnath Tola, Sarmastpur, P.O- Kalwari, P.S- Kanti, Muzaffarpur.
9. Amarnath Chaudhary S/O Late Baliram Chaudhary Resident Of Village- Narsanda, P.O and P.S- Kanti, Muzaffarpur.
10. Daya Devi W/O Deep Narayan Chaurasia Resident Of Village- Ahiraulia, P.O and P.S- Chakiya, East Champaran.
11. Parmila Devi W/O Bhagya Narain Chaurasia Resident Of Village- Ahiraulia, P.O and P.S- Chakiya, East Champaran.
12. Karamchari Revenue, Office Of The Circle Officer, Kanti, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nikhil Kumar Verma
For the Respondent/s : Mr.Md. N. Hoda Khan

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 23-07-2019

Heard learned counsel for the parties.

2. The petitioner has challenged an order dated 24.05.2013 passed in Revision Case No. 18/ M.U.T./10-11 by the Additional Collector, Muzaffarpur, whereby the Mutation



Revision case filed by respondent No.8 has been allowed and order dated 24.12.2010 passed in Mutation Appeal case No. 33 of 2009-10 by the Deputy Collector Land Reforms, Muzaffarpur West has been set aside, with a direction to the Circle Officer, Kanti to collect revenue and issue rent receipts after creating Jamabandi in the name of respondent No.8.

3. Notices were issued to the contesting private respondents.

4. A counter affidavit has been filed on behalf of the respondent Nos. 7 and 8. The State-respondents have also filed a counter affidavit.

5. When the case was taken up by this Court on 29.11.2013, an interim order was passed staying the operation of the said impugned order dated 24.05.2013, considering the submission that at no stage of the proceeding, the petitioner who is daughter of the Jamabandi Raiyat was noticed before the order was passed.

6. The relevant facts for adjudication of the present case have been noticed by this Court in the order dated 16.04.2014 from which it transpires that one Brahamdeo Bhagat @ Brahmadeo Choudhary owned and possessed nearly 16 decimals of land, who died leaving behind his widow, Ram Kali



Devi and three daughters, namely, Mahapati Devi (Petitioner), Daya Devi (respondent No. 10) and Parmila Devi (respondent No.11). Ram Kali Devi had gifted the entire 16 deciamls of land through registered deed of gift dated 12.03.1977 to Sandhtya Devi (respondent no.6), who after getting mutation in her name, sold the same to Asha Devi (respondent No.8) by a registered sale deed on 02.03.2009. Respondent Nos. 10 and 11 being sisters of the petitioner sold 4 decimals of land, which was originally part of their father's land, by a registered sale deed to respondent no.9. It is noteworthy that when the sale deed was executed on 11.06.2008, the entire land had already gifted by Ram Kali Devi, the mother of the petitioner to respondent no.6, though wrongly according to the petitioner since they were, heirs to the estate of Brahamdeo Bhagat. It was in the aforesaid background that respondent No.9 filed a partition Suit seeking carving out his share of the land from the land of Brahamdeo Choudhary. During the pendency of the partition suit, two orders of mutation were passed by the mutation authorities one in favour of respondent no.6 mutating the entire 16 decimals of land in favour of respondent no.6 and the other mutating the 4 decimals of land in favour of respondent No.9 which was purchased from respondent Nos. 10 and 11. The two orders were



challenged in appeal. They Deputy Collector Land Reforms passed an order to the effect that the mutation matter should be taken up after partition suit was decided as amongst the parties when the true ownership of the land would be ascertained. The said order came to be set aside by the revisional court by the impugned order. The petitioner is a party in the partition suit, which is not in dispute. She was, however, not impleaded in the proceeding before the Revenue authorities including in the revisional proceeding before the Additional Collector in which the impugned order came to be passed, which fact is also not in dispute.

7. In my opinion, the petitioner was a necessary party for the proceeding before the revenue Courts including the revisional Court of the Additional Collector, Muzaffarpur. The absence of the petitioner in the proceeding before the revenue Court of Additional Collector, Muzaffarpur renders the impugned order vulnerable. The impugned order, passed in the absence of petitioner, in my opinion, suffers from the vice of principles of natural justice. Accordingly, the impugned order dated 24.05.2013 is set aside.

8. The matter is remanded back to the Additional Collector, Muzaffarpur for passing an order afresh in Revision



Case No. 18/M.U.T./10-11 after allowing the petitioner to be impleaded as party respondent. The Court would expect the Additional Collector to pass an order afresh in the light of the present order expeditiously, preferably within six months from the date of receipt/production of a copy of this order.

8. This application is allowed.

9. However, there shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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