

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14703 of 2019

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Baliram Kumar Yadav @ Baliram Kumar S/o Late Ganeshi Yadav @ Late Ganesh Yadav Vill.- Umga, Tola Jamuniya, P.s.- Madanpur, Distt.- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms Department, Old Secretariat, Patna
2. Ram Nandan Yadav S/o Late Bishundhari Yadav Vill.- Umga, Tola Jamuniya, P.s.- Madanpur, Distt.- Aurangabad
3. Kamlesh Yadav S/o Late Suresh Yadav Vill.- Umga, Tola Jamuniya, P.s.- Madanpur, Distt.- Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar Sinha
For the State	:	Mr.Rishi Raj Sinha (SC-19)
		Mr. Birendra Pd. Singh, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 24-07-2019 Heard the learned counsel for the parties.

The petitioner had filed an application for mutation before the Circle Officer in respect of property, which he is said to have inherited. The Circle Officer allowed the application for mutation in favour of the petitioner. The said decision of the Circle Officer has been interfered with by the appellate authority, which has been affirmed by the revisional authority and by the impugned order dated 03.04.2018, passed by the Bihar Land Tribunal (for short 'the Tribunal') in BLT Case No. 198 of 2018, which order is under challenge in the present writ



application.

It is evident from the impugned order that the petitioner had claimed mutation on the basis of oral partition in the family. The learned Member (Judicial) has recorded in the impugned order, while dismissing the application of the petitioner, that the contesting respondent had not agreed about allotment of respective shares and, therefore, the mutation could not have been allowed by the Circle Officer. In that background, the learned Members (Judicial) has refused to interfere with the order of the Additional Collector, which was passed in his revisional jurisdiction and that of the Deputy Collector Land Reforms passed in his appellate jurisdiction.

The reasoning assigned by the learned Member(Judicial), in my view, appears to be sound and cannot be legally infirm.

Learned counsel for the petitioner has attempted to convince this Court that the petitioner is, in fact, in possession over the property after oral partition, which had already taken place and, therefore, the order of the Circle Officer ought not to have been interfered with. He submits that because of subsequent orders passed by the Deputy Collector Land Reforms, Additional Collector Land Reforms and the Tribunal,



the respondents are disturbing his possession.

The dispute of the nature between the petitioner and the private respondents cannot be adjudicated upon in a mutation proceeding. Apparently, the dispute is in respect of the title and possession and for both the reliefs, a suit before a competent court of civil jurisdiction is obvious remedy for the parties to get their dispute adjudicated upon.

Learned counsel for the petitioner has submitted that the observation made in the order of the Tribunal may adversely prejudice his case, if any suit is filed.

Such apprehension has no basis. Any observation made by the revenue authorities or the Tribunal in a mutation proceeding should not be prejudicial to the interest of either of the parties, if any suit is filed.

This writ application is disposed of with the above-noted observation.

(Chakradhari Sharan Singh, J)

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