

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20599 of 2019**

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Madan Mohan Nisad, Aged about 65 years, Male, Son of Jagannath Singh,  
Resident of Malahi Tola, Manihari, Katihar, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Land Revenue Department, Government of Bihar, Patna.
3. The District Magistrate, Katihar, Bihar, Patna.
4. The Additional Collector, Katihar.
5. The Circle Officer, Kadawa, District- Katihar.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Amrendra Kumar Shrivastawa  
For the Respondent/s : Mr.Subash Chandra Yadav (Gp15)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

2      18-10-2019                      Heard both sides.

The petitioner by filing this writ petition seeks  
following reliefs:

“(A) For direction to the respondents to comply the  
order which was passed by the respondent no.4 with a direction to  
the respondent no.5 to mutate the name of the petitioner related to  
land bearing Thana No.503, Khata No.150, Khesara No.697, 702,  
703 in his favour till the final order of the Appeal which is pending  
consideration in the court of District Magistrate.

(B) For a direction to the respondent no.4 to take  
administrative legal action against respondent no.5.



(C) For issuance of any other writ or writs; direction/directions; order/orders in the ends of justice.”

Learned counsel for the petitioner submits that the petitioner filed petition before the Circle Officer, Kadawa to mutate his name with regard to the lands of Khata No.150, Khesra Nos.697, 702 and 703. The Circle Officer, Kadawa, Katihar rejected the petition of the petitioner for mutating his name on the ground that the appeal is pending before the District Magistrate, Katihar. The petitioner filed mutation appeal before the DCLR. The DCLR also dismissed the appeal and thereafter petitioner filed Mutation Revision Case No.501 of 2015. The Additional Collector, Katihar by order dated 19.01.2018 directed the Circle Officer, Kadawa to mutate the name of the petitioner with condition that the judgment in appeal preferred by Jay Prakash Poddar shall be binding on both the parties. It is further submitted that the Additional Collector repeatedly directed the Circle Officer to comply the order dated 19.01.2018 passed by him but till date the name of the petitioner has not been mutated.

Learned counsel for the State submits that the petitioner has not made Jay Prakash Poddar and others as respondents and no order can be passed in absence of contesting parties. From the order of the Additional Collector (Annexure-1) itself, it appears that the petitioner is purchaser from one of the co-sharers and



other co-sharers and Bataaidars have filed appeal before the Collector and the same is pending. The petitioner has not stated in the petition that the contesting parties have not filed petition before the BLT against the order passed by the Additional Collector. It appears that the petitioner has concealed material facts in seeking relief from this Court under Article 226 of the Constitution of India.

Having considered the submissions of both sides and on perusal of the order of the Additional Collector, Katihar, it is evident that the petitioner filed mutation revision case against Jay Prakash Poddar and others but the petitioner did not implead Jay Prakash Poddar and others as respondents. The land was admittedly recorded in the name of Mannu Mandal. Mannu Mandal died leaving behind one son, Suresh Mandal and one daughter Fokni Devi. Suresh Mandal died leaving behind Asit Mandal. The petitioner purchased the land from Asit Mandal and filed petition but other co-sharers of Asit Mandal and Jay Prakash Poddar contested the mutation case and it was found that the petitioner was not in possession of the land. One petition under Section 48(E) of the B.T. Act was filed by Jay Prakash Poddar and he is declared to be under raiyat of the land. The landlord filed appeal in the court of District Magistrate. It is transpired that Suresh Mandal, son of Mannu Mandal died leaving behind two



sons and four daughters but the petitioner misrepresented the facts that Suresh Mandal had only one son and one daughter and purchased the entire lands from one of the sons of Suresh Mandal. On that ground the appellate court refused to mutate the name of the petitioner. The Additional Collector, Katihar took note of the fact about the pendency of the appeal pending before the Collector but even then ordered to mutate the name of the petitioner subject to the order that the order passed by the appellate court shall be effective. It appears that the facts are disputed and on such disputed facts involving title and possession of the petitioner, I am of the view that no direction can be given to the Circle Officer to mutate the name of the petitioner unless the same is decided by the competent court.

Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed.

**(Prabhat Kumar Jha, J)**

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