

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21153 of 2019

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Punit Kumar Shrivastava Son of Late Prem Shankar Lal, Resident of Village
-Amarpura, P.O.-Bilaudi, P.S. Mohaniya, District-Bhabhua (Kaimur).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms and Revenue Department, Patna.
2. The Principal Secretary, Land Reforms and Revenue Department, Patna.
3. The District Magistrate, Kaimur at Bhabhua.
4. The Executive Engineer, R.C.D. Road, Road Construction Division, Mohaniya, Bhabhua.
5. The Addl. Collector, Bhabhua.
6. The Deputy Collector Land Reforms, Mohaniya at Bhabhua.
7. The Circle Officer, Mohaniya at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Sajid Salim Khan (Sc25)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 13-12-2019 Heard both sides.

2. Petitioner filed this writ petition for quashing the order dated 16.05.2019 passed by learned Chairman, Bihar Land Tribunal in B.L.T. Case No.444 of 2018 by which the learned Chairman refused to interfere into the revisional order passed by the Additional Collector, Bhabua in Mutation Revision Case No.24/2017-18 and further to quash the order dated 10.06.2017 passed by D.C.L.R, Mohaniya in Mutation Appeal No.109/2015-16 by which the D.C.L.R set aside the order of the Circle Officer passed in Mutation Case No.298/2012-13 by



which the land of plot nos.134, 135 and 136 of khata no.233 situated in village Amarpura, P.S.-Mohaniya, District - Kaimur was ordered to be mutated in the name of the petitioner.

3. Mr. Sanjay Kumar, learned counsel for the petitioner submits that the petitioner filed petition for mutation of plot nos.134, 135 and 136 of khata no.233 and the Circle Officer called for a report from the Circle Inspector and the Revenue Clerk and on that report the Circle Officer ordered for mutation of the name of the petitioner. The Executive Engineer, RCD, Mohaniya filed Mutation Appeal No.109 of 2015-16 before the D.C.L.R., Mohaniya and the D.C.L.R. set aside the order of the Circle Officer remanding the case to the Circle Officer to mutate the name of the persons in whose name the record of rights is standing. The petitioner filed mutation revision before the Additional Collector which was dismissed and the learned Chairman, B.L.T. refused to interfere into the order of the revisional authority or the appellate authority on the ground that petitioner filed Title Suit No.5635 of 2014 with regard to the land in question and, therefore, during pendency of the title suit, it is needless to interfere with the order. The mutation authority shall mutate the name of a person in view of the judgment and decree passed in title suit.



4. Learned counsel for the petitioner further submits that D.C.L.R without having any petition for condonation of delay, condoned the delay and set aside the order of the Circle Officer mutating the name of the petitioner. The Executive Engineer, RCD, Mohaniya is not a competent person to file mutation appeal. It is further submitted that the revisional authority as well as the Chairman, B.L.T. did not look into the matter and dismissed the petition of the petitioner.

5. Learned S.C. 25 appearing on behalf of the State submits that since title suit is pending with regard to the land in question, it is needless to pass any order interfering into the order of the D.C.L.R. (appellate authority). The Circle Officer is bound to follow the dictates and get the name of the persons mutated on the basis of the judgment and decree passed in title suit filed by the petitioner. It is further submitted that it is admitted, from perusal of the order of the Circle Office as well as the D.C.L.R, that plot nos.134, 135 and 136 of khata no.233 was recorded in the name of the State of Bihar during revisional survey. When the petitioner filed petition for mutation of his name, the Circle Officer of course called for a report from the Circle Inspector and the Revenue Clerk but did not issue notice to the person in whose name the record of rights is standing.



Therefore, the Circle Officer has patently committed illegality in passing the order to mutate the name of the petitioner in the record of rights without issuing notice to the person in whose name the record of rights is standing. It is submitted that in view of this fact, the matter should be remitted to the court of Circle Officer to hear both the parties and pass order afresh after keeping in view the pendency of the title suit filed by the petitioner in accordance with law.

6. Having considered the submissions of both sides and on perusal of the record as well as the order of the Circle Officer and the order passed by the D.C.L.R., it is crystal clear that the Circle Officer after having received the petition of the petitioner for getting his name mutated in the record of rights with regard to the said lands called for a report from the Circle Inspector and the Revenue Clerk but did not issue notice to the Public Works Department (State of Bihar) in whose name the record of rights was standing. On the basis of the report and assertions made by the petitioner, the Circle Officer passed the order for mutation of the name of the petitioner in the record of rights after deleting the name of Public Works Department (State of Bihar). This fact itself shows that the land was standing in the Public Works Department (State of Bihar) and from



perusal of the entire order sheets of Mutation Case No.298/2012-13, it appears that the Circle Officer passed patently illegal order without issuing any notice to the person in whose name the record of rights is standing. The D.C.L.R. on appeal condoned the limitation and set aside the order of the Circle Officer. Therefore, I find it just and proper to remit the case to the Circle Officer, Mohaniya at Bhabua to hear both the sides afresh and pass order in accordance with law on the petition of the petitioner taking into consideration the provisions of the Mutation Act as well as the pendency of the title suit filed by the petitioner within four months from the date of receipt of this order.

7. With the aforesaid observations/directions, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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