

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20313 of 2019**

=====

Basmati Devi alias Barmati Devi W/o Late Lallan Singh, R/o Village-  
Dewradh (Kala), P.S. Kudra, District- Kaimur(Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue, Govt. of Bihar, Patna.
2. The Collector, Kaimur at Bhabua.
3. The Additional Collector, Kaimur at Bhabhua.
4. The Deputy Collector Land Reforms, Mohania, District- Kaimur (Bhabhua).
5. The Circle Officer, Kudra , District- Kaimur Bhabhua.
6. Vijay Bahadur Singh, Son of late Janki Singh, resident of Village Dewradh (kala), P.O. and P.S.- Kudra, District- Kaimur, Bhabhua, Bihar.
7. Baban Singh, Son of late Janki Singh, resident of Village Dewradh (kala), P.O. and P.S.- Kudra, District- Kaimur, Bhabhua, Bihar.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr.Ray Saurabh Nath  
For the Respondent/s : Mr.Sajid Salim Khan (SC25)

=====

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

2      15-10-2019                      Heard both sides.

The petitioner in this writ petition seeks quashing of the order dated 25.07.2019 passed by the Learned Member (Administrative), Bihar Land Tribunal, Patna (B.L.T.) in B.L.T. case No. 641 of 2017 by which the learned Member set aside the order of the Circle Officer mutating the name of the petitioner and the order passed by the appellate authority and revisional authority confirming the order of the Circle Officer.

The admitted facts are that the lands stand in the name one Janki Singh in the record of rights. Janki Singh got four sons. Janki Singh is said to have executed sale deed with regard to the lands standing in his name in favour of petitioner, Basmati



Devi, wife of one of his four sons, Late Lallan Singh. The petitioner filed Mutation Case No. 652/2009-10 to get her name mutated on the basis of sale deed. Respondent No.6, one of the sons of Janki Singh, objected stating that Janki Singh is not entitled to execute the sale deed in favour of petitioner and for that Title Suit No.376 of 2009 was filed on 19.08.2009 but the Circle Officer on the basis of sale deed mutated the name of the petitioner. The appellate authority and the revisional authority also confirmed the order of the Circle Officer but the learned Member, BLT held that in view of Section 6 (12) of the Bihar Mutation Act, 2011 Mutation of a holding or a part thereof shall not be allowed in cases in which Title Suit with regard to that holding or a part thereof is pending in the competent court and set aside all the three orders passed by the Circle Officer as well as the appellate authority and the revisional authority.

The learned counsel for the petitioner submits that Bihar Mutation Act came into effect in the month of December, 2011 and has got no retrospective effect. The Circle Officer passed the order on 22.10.2009 and there is no provision in the old Act that mutation cannot be made if title suit is pending with regard to the title of land. It is further submitted that mutation does not decide the title of a party and mutation is made only for the purpose of collecting rent. It is submitted that the order of B.L.T. is illegal on the ground that it is based on interpretation of Section 6(12) of the Bihar Mutation Act, 2011 which came into force in the year 2011 but I find no force in the submission of the learned counsel for the petitioner on the simple ground that Janki Singh, the recorded tenant, got four sons but he executed sale deed with regard to land recorded in his name in favour of petitioner, widow of one of his four sons, depriving



his other sons from their legal rights who also got share in the land standing in his name and the other son, Vijay Bahadur Singh, respondent No.6, made objection before the Circle Officer against mutation of the name of petitioner in view of the fact that title suit is pending between the parties. It is reasonable and very rightful that once a bonafide dispute with regard to title of the holding or a part thereof is pending in the competent court the mutation authority should have refrained from mutating the name of a party by virtue of sale deed executed by a person who, on the face of it, appears that he has no title to transfer the entire land depriving the right of other co-parceners or co-sharers.

Thus, I find no merit in this writ petition and the same is, accordingly, dismissed.

**(Prabhat Kumar Jha, J)**

BKS/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

