

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21283 of 2019

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Lalit Kunwar @ Lalita Kunwar, Aged about 73 years, Female, Wife of Late Krishna Tiwary, Resident of Village Tetariya, Police Station Nabinagar, District Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Collector, Aurangabad.
3. The Deputy Collector, Land Reforms, Aurangabad.
4. The Circle Officer, Nabinagar, Anchal, District- Aurangabad.
5. Ram Keshwar Singh, Son of Late Dhura Singh, Resident of Village Tetariya, Police Station Nabinagar, District Aurangabad (Bihar).
6. Ashok Tiwary, son of Late Krishna Tiwary, Resident of village Kurwan, Police Station Kurwan (Nabinagar), District Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Nawal Kishore Singh, Advocate
		Mr. Ranjit Kumar, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C. 19

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 24-10-2019 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

The petitioner filed this writ petition for quashing the order dated 09.08.2018, passed by the learned Member, Judicial in B.L.T. Case No.80 of 2018 whereby the learned Member, Judicial confirmed the order passed in Mutation Revision Case No.47 of 2015, Mutation Appeal No.57 of 2013 and the order passed by the Circle Officer in Mutation Case No.1781 of 2011-12.

The contention of the learned counsel for the petitioner is that the land was recorded in the name of Krishna Tiwary, the



husband of the petitioner. Ashok Tiwary, son of late Krishna Tiwary executed sale deed with regard to the land bearing Plot No.12/407, Khata No.41 and Plot No.17, Khata No.4, area .01x1/2 and .93x1/2 decimal respectively in favour of Ram Keshwar Singh. Ram Keshwar Singh filed petition for getting his name mutated before the Circle Officer, Nabinagar. The Circle Officer, Nabinagar mutated the name of respondent no.5 and the same order has been confirmed by all the courts. It is submitted that no notice was issued to the recorded tenant before mutating the name of respondent no.5. It is submitted that without issuance of notice to the recorded tenant, the order mutating the name of purchaser is bad. A single Bench of this Court in the case of Kripa Narayan Singh vs. State, reported in 2007 (3) PLJR 278 held that the requirement of notice and hearing before deletion of the name of the person in whose name the land is recorded is essential and if no notice was issued to the recorded tenant, the order mutating the name of other persons after deleting the name of the recorded tenant is illegal.

Having considered the submissions and on perusal of the records, I find that admittedly the land was recorded in the name of Krishna Tiwary. Ashok Tiwary, son of Krishna Tiwary executed a sale deed claiming to be in possession of the land by virtue of partition between the father and the son and on such the



purchaser from Ashok Tiwary filed petition for mutation. The Circle Officer, Nabinagar issued notice and when no objection was received and Revenue Karamchari reported that the purchaser came in possession of the land after purchasing the land from Ashok Tiwary, mutated the name of the purchaser Ram Keshwar Singh. Krishna Tiwary was alive till the year 2013 and no objection was filed for deleting his name from record of rights and mutating the name of purchaser from his son. When Krishna Tiwary died, his wife filed appeal before the Deputy Collector, Land Reforms, Aurangabad. The DCLR, Aurangabad held that if the petitioner claims the right over the land, that can be decided only in a proper civil suit and not in this mutation proceeding. There is nothing on record to show that notice was not issued to the recorded tenant, therefore, I do not find any illegality in the order impugned.

Accordingly, the writ petition, being de void of any merit, stands dismissed.

(Prabhat Kumar Jha, J)

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