

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22644 of 2019

=====

Bahujan Hitai Trust, Dhamma Chakra Parvartan Mahavihar Trustee, Dapodi Pune (Maharashtra)-411012 through the authorized person and Estate Manager Sagar Vishnu Bhagat, Aged about 46 years, Gender-Male, Son of Vishnu Gomaji Bhagat, Resident of House No. 1544, Oaude, Bhervnath Nagar, Lonavia, Kusgaon KH, P.S. Lonavala, District Pune, Maharashtra.

... .. Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Additional Collector, Gaya.
4. The D.C.L.R., Gaya.
5. The Circle Officer, Bodh Gaya, Gaya.
6. Sri Rambilash Singh, S/o late Jagdeo Kahar, Resident of Village New Taradih, Bhagalpur, P.S. Bodhgaya, Distt.- Gaya.
7. Sri Surendra Singh, S/o late Jagdeo Kahar, Resident of Village New Taradih, Bhagalpur, P.S. Bodhgaya, Distt.- Gaya.
8. Smt. Kanti Devi, W/o Kanhiya Prasad, Daughter of Late Jagdeo Kahar, Resident of - Utari Mandiri, Patna, P.S.- Kotwali, District- Patna.
9. Smt. Kantul Devi, W/o Anil Ram, Daughter of Late Jagdeo Kahar, Resident of Village - Larpur, P.S.- Bodhgaya, District- Gaya.
10. Smt. Kamla Devi, W/o Sri Pappu Singh, Daughter of Late Jagdeo Kahar, Resident of - Doctor Kishori Mohan Complex, P.S.- Rampur, Distt.- Gaya.
11. Smt. Meena Devi, W/o Sri Shambhu Sharan Singh, Daughter of Late Jagdeo Kahar, Resident of Mohalla- Tekari Road, P.S.- Kotwali, District- Gaya

... .. Respondent/s

=====

Appearance :

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

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-11-2019 Heard Mr. S.K. Lal, the learned counsel appearing on

behalf of the petitioner and the learned counsel for the State.

The petitioner seeks following reliefs:

“(a) An appropriate writ (s), order (s), direction (s)



quashing the order dated 13.10.2018 passed by Additional Collector, Gaya, in Jamabandi Cancellation Case No.34 of 2016 where under he allowed the Respondents 2ND Set to file appeal before the L.R.D.C., Gaya, against the order dated 27-03-1996, passed by the Circle Officer, Bodh-Gaya, in Mutation Case No. 1412 / 1995-96 allowing creation of Jamabandi in the name of the petitioner of the lands purchased by him from it's rightful owners.

(b) An appropriate writ (s), order (s), direction (s) quashing the order dated 16-05-2019 passed by the L.R.D.C., Gaya, in Mutation Appeal No. 85 / 18 whereby he has directed the Circle-Officer, Bodh-Gaya, to mutate the name of the Respondents No.2 Set up to extent of their alleged share in relation to the lands of the petition mutated in his favour of 27-03-1996 in Mutation Case No.1412 / 1995-96 on the ground that they being the descendants of the daughters of Ram Dhani Yadav had also succeeded his estate.

(c) An appropriate writ (s), order (s), direction (s) to restrain the Respondents from interfering with the possession of the petitioner over his lands appertaining to Thana No. 360, Khata No. 122 (New) / 37 (Old), Plot No.361 (New) / 198 (Old), Area 0.96 ½ Acres at village Mastipur, P.S. Bodhgaya,



District- Gaya.

(d) An appropriate writ (s), order (s), direction (s) to pending disposal of the writ application stay the operation of the order dated 16-05-2019 passed by the L.R.D.C., Gaya, in Mutation Appeal No. 85 of 2018.

(e) Any other order (s) to which this Hon'ble Court may deem fit and proper for giving complete justice to the petitioner.

Mr. S.K. Lal, the learned counsel for the petitioner submits that the petitioner is a charitable trust duly registered under the Act. The petitioner purchased Plot No.122 (New)/37 (Old) of Khata No.360, Plot No.361 (New)/198 (Old), measuring 0.96½ Acres situated in Village Mastipur, P.S. Bodh-Gaya, District Gaya from the recorded tenant, namely, Jagdeo Kahar. Jagdeo Kahar sold 0.37½ Acres of land to one Smt. Kapur Devi of Village Taradih, P.S. Bodh-Gaya, District Gaya. The petitioner also purchased the same lands. The petitioner also purchased 25,783 Sq. Ft. of lands of Plot No.361 (New)/198 (Old) from Jagdeo Kahar, the recorded tenant for valuable consideration through two registered sale deeds dated 05.04.1994 and 06.04.1994 vide Deeds No.4664 and 4771 and the petitioner came in possession of the lands. The petitioner



filed petition for mutating his name before the Circle Officer vide Mutation Case No.1408 of 1995-96. The Circle officer, Bodh-Gaya by order dated 27.03.1996 allowed the mutation and opened Jamabandi No.285 in the name of the petitioner. The petitioner is paying rent and constructed building over the land. The sons and daughters of Jagdeo Kahar, respondents no.6 to 11 filed petition before the Additional Collector, Gaya for cancellation of Jamabandi opened in the name of the petitioner vide Jamabandi Cancellation Case No.34 of 2016-17. The Additional Collector by order dated 13.10.2018 dismissed the petition for cancellation of Jamabandi on the ground that the case involves question of title but at the same time observed that the respondents no.6 to 11 may file mutation appeal before the Circle Officer. Thereafter the respondents no.6 to 11 filed Mutation Appeal No.85 of 2018 before the Land Reforms Deputy Collector, Sadar, Gaya. The Land Reforms Deputy Collector, Sadar, Gaya by order dated 16.05.2019, passed in Mutation Appeal No.85 of 2018 directed the Circle Officer to mutate the names of respondents no.6 to 11, respondents second set, according to their share.

Learned counsel for the petitioner submits that the land in question was settled by ex-landlord in favour of late



Jagdeo Kahar and late Jagdeo Kahar during his life time sold the land in favour of the petitioner through registered sale deeds. The Deputy Collector Land Reforms has exceeded his jurisdiction by directing the Circle Officer to mutate the names of respondents no.6 to 11 on the basis of their shares in the land on account of being sons and daughters of Jagdeo Kahar. It is further submitted that on the basis of the aforesaid illegal order of the Deputy Collector Land Reforms, the respondents, second set, have come to the plot of the petitioner to dispossess him.

Having considered the submissions of the learned counsel for the petitioner and the State and on perusal of the records, the facts which are admitted are that Jagdeo Kahar sold the land in dispute to the petitioner through two sale deeds executed in the year 1994. After execution of the sale deed, the petitioner got his name mutated and constructed building on the lands purchased by the petitioner. The sons and daughters of late Jagdeo Kahar filed mutation appeal against the order passed by the Circle Officer mutating the name of the petitioner. There is an alternative and efficacious remedy as provided under the Mutation Act, 2011 that against the appellate order of D.C.L.R., the revision is filed before the Collector but without exhausting the alternative and efficacious remedy, the petitioner has



approached this Court.

In this view of the fact, I am not inclined to interfere in the order of the appellant authority, passed in Mutation Appeal No.85 of 2018. Accordingly, I dispose of this writ petition with direction to the petitioner to file revision petition against the order of the D.C.L.R., passed in Mutation Appeal No.85 of 2018 and if such revision is filed, the revisional authority shall, without unsuiting the petitioner on the ground of limitation, hear the petitioner on merits and dispose of the same within six months from the date of presentation of the revision petition.

With the aforesaid observation and direction, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

S.KUMAR/-

U			
---	--	--	--

