

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7949 of 2018

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Satyendra Prasad Yadav @ Satyendra Prasad S/o Late Bhuvneshwari
Mandal, R/o Vill- Barsam, P.S.- Saurbajar, Dist- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, P.S. Sachivalya Thana, Dist. Patna.
2. The Principal Secretary, Revenue and Land Reforms, the State Govt. of Bihar, Patna, P.S.- Sachivalya Thana, Dist. Patna.
3. The District Magistrate Saharsa P.S.- Saharsa Sadar Dist Saharsa.
4. The Additional Collector, Saharsa, P.S.- Saharsa Sadar, Dist- Saharsa.
5. The D.C.L.R. Saharsa, P.S.- Saharsa, Dist- Saharsa.
6. The Circle Officer, Saurbajar, P.S.- Saurbajar, Dist- Saharsa.
7. Hakri Devi, W/o Beni Sharma, R/o Barsam, P.S.- Saur Bajar, Distt.- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Mr. Neeraj Kumar
For the State	:	Mr. Majid Mahboob Khan
For the respondent No.7	:	Mr. Pramod Kumar Sinha Mr. Arvind Kumar Sharma Mr. Chetan Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 06-03-2020 Heard both sides.

The petitioner moved this Court for quashing the order dated 29.04.2017 as contained in letter No.593-2 by which the order passed in Mutation Case No.192 of 2016 was stayed and Jamabandi No.285 was kept in abeyance and further directed that the rent receipts of land contained in Jamabandi No.285 be issued in the name of Ayodhi Tanti, the ancestor of respondent No.7(Hakri Devi).



The relevant facts are that Hakri Devi, respondent No.7 filed petition being Mutation Case No.192 of 2006-07 to mutate the land in her name before the Circle Officer, Saur Bajar with regard to new Plot No.1421, 1422 and 1423 area 71 decimals of Khata No.13(old Khata No.88, old Khesra Nos.473, 474 and 475). The land was standing vide Jamabandi No.13 in the name of Ayodhi Tanti, father-in-law of respondent No.7 and rent receipt was being paid. Satyendra Yadav, Amrendra Yadav and Gajendra Yadav got the land mutated in their names showing Jamabandi No.285 standing in the name of Kuldeo Sah. Respondent No.7 did not receive any notice. Respondent No.7 filed B.L.D.R. Case No.276 of 2012 and produced the order dated 09.04.2012 passed in B.L.D.R. Case No.276 of 2012 before the Circle Officer. The respondent also filed Mutation Appeal No.69 of 2015 against the order dated 27.07.2006 passed in Mutation Case No.192 of 2006-07. The petitioner claimed that they purchased the land from Most. Dainwati, wife of late Ayodhi Tanti @ Ayodhya Sharma, Radheyshyam Sharma, son of Ayodhya Sharma, Viraj Sharma and Beni Sharma, sons of Ayodhya Sharma after payment of consideration money through a registered sale deed No.15112/1973. The D.C.L.R. by order dated 08.04.2017 dismissed the mutation appeal of respondent



No.7 holding that the lands mentioned in the petition for mutation filed by Kuldeo Sah in Mutation Case No.192 of 2006-07 are not the part of the lands referred by the appellant-respondent No.7 but again by order as contained in letter No.593-2 dated 29.04.2017 directed the Circle Officer that Jamabandi No.285 opened in pursuance of Mutation Case No.192 of 2006-07 in favour of Satyendra Yadav and others be kept in abeyance and the rent receipts regarding lands of Jamabandi No.285 be issued in favour of respondent No.7(Hakri Devi).

Learned counsel for the petitioner submits that the petitioner and his two brothers got their names mutated by virtue of the registered sale deed from the recorded owner of the land. Respondent No.7 filed Mutation Appeal No.69 of 2015 against the order passed in Mutation Case No.192 of 2006-07. The D.C.L.R. dismissed the appeal on 08.04.2017 preferred by respondent No.7 but again the same D.C.L.R., Saharsa on the petition of respondent No.7 issued a letter No.593-2 on 29.04.2017 to keep the order passed in Mutation Case No.192 of 2006-07 in abeyance and rent receipt of the lands contained in Jamabandi No.285 opened in pursuance of the order passed in Mutation Case No.192 of 2006-07 be issued in favour of the



respondent No.7. It is submitted that D.C.L.R. in the administrative side cannot stay the operations of the order passed in Mutation Case No.192 of 2006-07 duly confirmed by him in Mutation Appeal No.69 of 2015 in the judicial side. If the respondent No.7 was aggrieved by the order passed by the D.C.L.R. in Mutation Appeal No.69 of 2015, respondent No.7 should have preferred revision before the appropriate authority and, therefore, it is submitted that D.C.L.R. lacks jurisdiction and the order 29.04.2017 as contained in letter No.593-2 is illegal.

Mr. Arvind Kumar Sharma, learned counsel for the respondent No.7 submits that in fact, the petitioner tried to convince this Court that by order dated 29.04.2017, as contained in Annexure-2, the D.C.L.R. withdrew his own quashi judicial order dated 08.04.2017(Annexure-1) passed in Mutation Appeal No.69 of 2015 but the facts are otherwise. Mutation Appeal No.69 of 2015 was filed against the order dated 27.07.2006 passed by Circle Officer, Saur Bajar in Mutation Case No.192 of 2006-07 which was with respect to Khata No.13, Khesra No.1421 area 25 decimals and Khesra No.1422 area 4 ½ decimals but the petitioner and others by virtue of order passed in Mutation Case No.192 of 2006-07 got Jamabandi No.285



created in their names with respect to Plot No.1421, area 25 decimals and Plot No.1422 area 4 ½ decimals situated in Mauza Barsan. The same land belonged to the respondent No.7. Mutation Case No.192 of 2006-07 was filed by Kuldeo Sah and not the petitioner but the revenue clerk on the basis of order passed in Mutation Case No.192 of 2006-07 created Jamabandi No.285. It is further submitted that respondent filed B.L.D.R. Case No.276 of 2012 before the D.C.L.R., Saharsa in which he appeared and the D.C.L.R. by order dated 09.04.2012, disposed of the case that the lands belonged to the respondent No.7 and directed the petitioner to approach the competent Civil Court for declaration of their title on the basis of the sale deed dated 03.08.1972 and 24.11.1976. It is submitted that even then the petitioner and his two brothers did not file any title suit, therefore, the order dated 29.04.2017(Annexure-2) does not require any interference.

Having heard the submission of both sides and on perusal of the records, I find that D.C.L.R. while hearing Mutation Appeal No.69 of 2015(Annexure-1) heard both sides and recorded the specific finding that the lands mentioned by respondent No.7 are not the part of the lands ordered to be mutated in the name of petitioner of Mutation Case No.192 of



2006-07 and dismissed the appeal filed by respondent No.7 against the order passed by the Circle Officer, Saur Bajar in Mutation Case No.192 of 2006-07. The petitioner and his two brothers claimed the land by virtue of registered sale deeds from the recorded tenant. Respondent No.7 also claimed the ownership of the land that she is the descendant of Ayodhi Tanti @ Ayodhya Sharma and Most. Dainwati who got three sons namely, Radheyshyam Sharma, Viraj Sharma and Beni Sharma. From perusal of Annexure-2, the administrative order of the D.C.L.R., contained in letter No.593-2 dated 29.04.2017, it is crystal clear that D.C.L.R. in his administrative capacity ordered to keep the order passed in Mutation Case No.192 of 2006-07 in abeyance and order for issuance of the rent receipts with regard to the lands mentioned in Jamabandi No.285 opened in pursuance of the order passed in Mutation Case No.192 of 2006-07 be issued in favour of respondent No.7 whereas it appears that D.C.L.R. while hearing the appeal did not find any error in the order passed by the Circle Officer in Mutation Case No.192 of 2006-07 and consequently, dismissed the Mutation Appeal No.69 of 2015 filed by respondent No.7. By the impugned order(Annexure-2), the D.C.L.R. on the face of it, appears to have stayed his own quashi judicial order passed in



Mutation Appeal No.69 of 2015 in administrative capacity and thus D.C.L.R. cannot pass the order of stay keeping the order in abeyance passed by him in a quasi judicial capacity while hearing the mutation appeal. Thus, I find the order as contained in letter No.593-2 is absolutely illegal and not sustainable in the eye of law. Accordingly, the order as contained in letter No.593-2(Annexure-2) is quashed and set aside. Resultantly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

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