

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25090 of 2013

1. Sneh Lata Singh, Wife of Late Rana Pratap Singh, Resident of Village Bairy Chhabani, P.S. Itarhi, District Buxar. At Present Residing at Sri Sneh Vatika, M-3/16, Shri Krishna Puri, P.S. Shri Krishna Puri, District Patna.
2. Gautam Singh Son of late Rana Pratap Singh.
3. Rithwik Kishore Singh, Minor son of Gautam Singh, under Guardianship of his Natural guardian father who has no adverse interest.
4. Palbavi Singh, Widow of late Sumant Singh, daughter-in-law of late Rana Pratap Singh.
5. Shreya Shree Singh, daughter of late Sumant Singh, grand daughter of late Rana Pratap Singh.
6. Manu Kishore Singh, Minor Son of late Sumant Singh and grandson of late Rana Pratap Singh, under the guardianship of natural Guardian Mother (Shreya Shree Singh), All resident of Sri Sneh Vatika M-3/16 Shri Krishnapuri , P.S. Shri Kirshnapuri, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Circle Officer, Itarhi Anchal, P.S. and Post Itarhi, District Buxar.
3. The Circle Inspector, Itarhi Anchal, P.S. and Post Itarhi, District Buxar.
4. Sunil Kumar Yadav, Son of Shri Kapilmuni Yadav, Resident of Village and Post Barka Rajpur, Police Station- Semari, District- Buxar.
5. Jairam Kumar, Son of Shri Kapilmuni Yadav, Resident of Village and Post- Barka Rajpur, Police Station- Semari, District- Buxar.
6. Shri Manish Kumar Singh, Son of Late Tarkeshwar Singh, Resident of Village- Itarhi, Police Station and Post- Itarhi, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uday Shankar Sharan Singh
For the Respondent/s : Mr.Prashant Pratap Gp6

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

10 20-02-2020 Heard Mr. Shravan Kumar, the learned Senior

Counsel appearing on behalf of the petitioners and the learned

counsel for the State.

Even today, nobody appears on behalf of respondents



no.4 and 5 although the case was passed over/adjourned on many dates on account of non-appearance of the respondents no.4 and 5. On 21.01.2020, the learned counsel appearing on behalf of respondents no.4 and 5 took adjournment on the ground of bereavement in his family but thereafter learned counsel for the respondents no.4 and 5 did not appear.

The petitioners in this writ petition seeks quashing of the order dated 12.03.2013, passed by the Circle Officer, Itarhi in Mutation Case No.1583 of 2010-2013, by which the Circle Officer ordered for mutation of the name of respondents no.4 and 5 with regard to the land of Khata No.12 (Survey) and 105 (Chak), Plot No.56 (Survey Plot) and 65 (Chak Plot), area 0.39½ decimals, situated in Mauza Bairee, Circle Itarhi, District Buxar (Annexure-9).

Learned counsel for the petitioners submits that 145.94 decimals of land situated in village Bairee, P.S. Itarhi, Circle Itarhi, District Buxar was settled by a registered *patta* in favour of Kali Prasad Singh in the year 1943 by *Raja* of Dumraon Estate. After vesting of estate, the name of Kali Prasad Singh was recorded in Register-II. Son and grandson of Hari Dhyan Singh fraudulently got their names entered in Register-II by making interpolation. When the petitioners came to know



about the interpolation in Register-II in the year 1971, the sons of Kali Prasad Singh filed petition before the Circle Officer to make necessary correction. The consolidation proceeding was started in the year 1977-78. The sons of Hari Dhyan Singh on the basis of revisional survey entry filed petition before the Consolidation Officer for recording the Chaks in their names but the Consolidation Authority rejected the petition with regard to the disputed land. The other sons of Hari Dhyan Singh filed consolidation appeal being Consolidation Appeal No.84 of 1983-84 and 85 of 1983-84 before the Deputy Director, Consolidation but the Deputy Director, Consolidation held that the entire land including the land in dispute was acquired through registered *Patta* exclusively by late Kali Prasad Singh and accordingly the record of right in the consolidation operation was prepared in the name of late Kali Prasad Singh and his sons. The legal heirs of other sons of Hari Dhyan Singh, namely, Manish Kumar Singh fraudulently executed sale deed in favour of respondents no.4 and 5 with regard to 39½ decimals of land of Plot No.56, Khata No.12 and on the basis of such wrong entry in the record of right, although corrected during the course of consolidation proceeding, the Consolidation Authority without looking into the records and without issuing any notice



to the petitioners ordered for mutation of the names of the purchaser, respondents no.4 and 5, from Manish Kumar Singh in the record of right. It is submitted that no notice was ever issued to the petitioners. It is further submitted that let the order be set aside and matter be remitted so that the Circle Officer, Itarhi may pass fresh order after hearing both sides.

Learned counsel appearing on behalf of the State submits that although from perusal of the orders, it appears that the Revenue Clerk reported that Register-II is standing in the name of Manish Kumar Singh and the Circle Officer passed the order in accordance with law but at the same time, it is submitted that if the petitioners were not heard, the State has got no objection if the matter is remanded to the Circle Officer to hear both sides afresh and pass order in accordance with law.

Having considered the submissions of both sides and on perusal of the record, I find that admittedly respondents no.4 and 5 purchased the lands from Manish Kumar Singh, Son of Tarkeshwar Singh. Tarkeshwar Singh was the son of Saraswati Prasad Singh, one of the sons of Hari Dhyan Singh and own brother of late Kali Prasad Singh. The *Raja* of Dumraon Estate executed registered *Patta* in the year 1943 in the name of late Kali Prasad Singh and at the time of vesting of estate, the Ex-



Zamindar filed return and on the basis of which the record of right was prepared in the name of late Kali Prasad Singh. The names of brothers of Kali Prasad Singh was not entered into the record of right but during the course of revisional survey, the name of Saraswati Prasad Singh, one of the brothers of Kali Prasad Singh, found place in the record of right and when this fact came to the knowledge of the legal heirs of Kali Prasad Singh, they filed objection during the consolidation proceeding and accordingly, record of right was prepared in the name of sons of late Kali Prasad Singh but taking advantage of entry of name of Saraswati Prasad Singh in the record of right, grandson of Saraswati Prasad Singh executed the sale deed in favour of respondents no.4 and 5 and when respondents no.4 and 5 filed petition for mutating their names on the basis of the sale deed executed by Manish Kumar Singh, the Circle Officer, Itarhi without verifying the Chak records, prepared during the consolidation operation, ordered for mutating the name of respondents no.4 and 5 in the record of right. It appears that no notice was issued to the petitioners, and therefore, the order suffers from illegality.

Considering the facts aforesaid, I find that the order dated 12.03.2013, passed by the Circle Officer, Itarhi in



Mutation Case No.1583 of 2010-2013 is not sustainable. Accordingly, the same is set aside. The matter is remitted back to the Circle Officer, Itarhi to decide the same afresh after hearing both sides.

The writ petition is accordingly, allowed.

The records is handed over to the learned counsel for the State.

(Prabhat Kumar Jha, J)

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