

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1973 of 2015

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Girish Kumar, Son of Late Naumi Singh R/o - Flat No- 401, Shri Bhagwat Kunj Apartment, Sardar Patel Path, North S.K Puri, Boring Road Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna.
2. The Collector, Patna.
3. The Deputy Collector. Land Reforms, Patna.
4. The Circle Officer, Sadar, Patna.
5. Chanchala Devi Wife of Late Puneshwar Prasad Singh.
- 6.1. Jyoti Kumari, Wife of Santosh Kumar Singh.
2. Minor Son (Name not known) through his natural guardian mother (Jyati Kumari)
7. Rantosh Kumar Singh Son of Late Puneshwar Prasad Singh.
8. Madheshwar Prasad Singh Son of Late Tarkeshwar Prasad Singh
9. Akhileshwar Prasad Singh
10. Jiv Raj Kumar Singh Son of Late Tarkeshwar Prasad Singh.
11. Most. Anita Devi Wife of Late Dineshwar Prasad Singh.
12. Babita Devi Wife of Late Rameswhwar Prasad Singh.
13. Kiran Devi Wife of Late Ganeshwar Prasad Singh.
All Resident of Mohalla - Rajpur, P.S.- Sri Krishnapuri, P.O - G.P.O - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar, Advocate
For the State	:	Mr. Manoj Kumar Sinha, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 14-02-2020

Heard learned counsel for the petitioner and learned AC to GA 9 for the State. Despite valid service of notice and learned counsel for the private respondents having entered appearance,



and name of learned counsel also appearing in the cause list, nobody was present when the matter was taken up and heard.

2. The petitioner has moved the Court for the following reliefs:

“i. Setting aside of the order dated 25.07.2014 (Annexure-6 to the writ application) passed by the Hon’ble Chairman, Bihar Land Tribunal, Patna in B.L.T. Case No. 302 of 2013, by which the matter has been adjudicated ex-parte and without assigning any reasons the matter has been remitted back to the Circle Officer, Sadar, Patna for deciding the Mutation Case No. 791/1 of 2008-09, though at the same time the Hon’ble Chairman has held that the order passed by the Circle Officer in Mutation Case No. 791/1 of 2008-09 had been rightly set aside by the Appellate and the Revisional Authorities in Mutation Appeal No. 2/2011-12 and Mutation Revision No. 44/2011-12, respectively, and moreover, the Hon’ble Chairman has also held that application of the respondents 2nd set are without any merits;

ii. Setting aside the order dated 2.05.2014 (Annexure-5 to the writ application) passed in B.L.T. (Misc.) Case No. 3 of 2014 (arising out of B.L.T. Case No. 302 of 2013) by the Hon’ble Chairman, the Bihar Land Tribunal, Patna, whereby the application of the respondents 2nd set filed for restoration of B.L.T. Case No. 302 of 2013, which stood dismissed (vide order dated 9.01.2014) for non-prosecution, has been allowed, without issuing any Notice to the petitioner, due to which the petitioner could not appear before the Learned Tribunal, when the matter was adjudicated on merits thereafter, and

iii. For granting any other relief/reliefs as may deem fit and proper in the facts and circumstances of the case.”



3. The private respondents had filed Mutation Case No. 791/1 of 2008-09 before the Circle Officer, Patna Sadar with a prayer for mutation of the land with respect to Plot No. 466, Khata No. 16, Tauzi No. 5453/18225 of Muaza Rajapur measuring 4 decimals. The same was filed on 05.01.2009 and the case was also allowed and mutation order passed on the same day. Being aggrieved, the petitioner filed Mutation Appeal No. 03/2011-12, before the Deputy Collector Land Reforms, Patna Sadar, which was allowed by order dated 08.10.2011 and the order of mutation in favour of the private respondents dated 05.01.2009, was set aside. The private respondents thereafter preferred Mutation Revision No. 44 of 2011-12, before the Additional Collector, Patna, which was dismissed by order dated 16.03.2013. Being aggrieved, the private respondents moved before the Bihar Land Tribunal, Patna (hereinafter referred to as the 'Tribunal') in BLT Case No. 302 of 2013, which has been disposed off by order dated 25.07.2014, by which the order of the Circle Officer has been held to be unsustainable and the orders of the Land Reforms Deputy Collector as well as the Additional Collector have been found to be correct but still the matter has been remanded to the Circle Officer, Patna Sadar for fresh consideration.



4. Learned counsel for the petitioner submitted that the Circle Officer while passing the order for mutation had done so on the same day on which the application was filed, without following the mandatory procedures like issuance of notice etc. It was submitted that both the Appellate and Revisional Authorities have gone into the merits of the matter and have held that in the background of the fact that the lands in question were yet to be allotted in the share of the parties, as it was joint property and there was no partition, it was only the Civil Court of competent jurisdiction which could pass an order with regard to right and title on the piece of land for which mutation was sought by the private respondents. It was submitted that the Tribunal once having upheld the orders passed by the Appellate and Revisional Authorities and has found the order passed by the Circle Officer to be in violation of the procedure provided under Mutation Act, 2011, has wrongly remitted the matter back to the Circle Officer for deciding Mutation Case No. 791/1-2008-09, afresh. Learned counsel submitted that the Appellate and Revisional orders had also considered the merits of the matter and once the reasoning has been upheld by the Tribunal, the Appellate and Revisional Authorities concurring that only the Civil Court of competent jurisdiction can settle the issue, the Tribunal while upholding such



orders, again sending the matter to the Circle Officer for consideration is unjustified and requires to be interfered with.

5. Learned counsel for the State submitted that there is dispute with regard to the title of the land in question, as it is part of a joint property and without the share being demarcated by the Civil Court of competent jurisdiction, the revenue authorities, including the Circle Officer could not have passed any order with regard to mutation of such land in favour of the private respondents.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and also taking note of the fact that neither any counter affidavit has been filed on behalf of the private respondents nor anybody has appeared on their behalf, the Court finds that the impugned order of the Tribunal dated 25.07.2014 cannot be sustained with regard to remanding of the matter to the Circle Officer, Patna Sadar for fresh consideration of Mutation Case No. 791/1 of 2008-09.

7. For reasons well discussed in both the Appellate and Revisional orders, by which it is established that there is serious dispute with regard to the title of the private respondents to the lands with regard to which mutation case was filed and such findings and orders of the Appellate and Revisional Authorities



also having been found to be correct and upheld by the Tribunal, there could not have been any order for remand to the Circle Officer, Patna Sadar. The observation of the Appellate and Revisional Authorities for the parties to approach the Civil Court of competent jurisdiction is correct and would necessarily lead to the consequence that unless the same is done, mutation in favour of any person, who claims for the same with regard to the properties or any part thereof, cannot be gone into and adjudicated at the level of the Circle Officer.

8. Accordingly, the writ petition stands disposed off by modifying the order impugned passed by the Tribunal dated 25.07.2014 in BLT Case No. 302 of 2013, to the extent that the order remitting the matter to the Circle Officer, Sadar, Patna for fresh consideration of Mutation Case No. 791/1 of 2008-09, stands set aside.

(Ahsanuddin Amanullah, J.)

P. Kumar

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