

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15264 of 2014

Mrityunjay Mohan Son of Late Dhruva Narain Pandey, Resident of Village - Shitalpur Kothi, Police Station - Dariyapur, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Land Reforms and Revenue, Govt. of Bihar, Patna.
3. The Deputy Collector, Land Reforms, Sonapur, District- Saran.
4. Circle Officer, Dariyapur Anchal Dariyapur, District- Saran.
5. Bachcha Sharma @ Birendra Sharma Son of Late Dharikshan Sharma, Resident of Village - Akbapur Kothi, P.S. - Dariyapur, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nagendra Rai, Adv.
For the State	:	Mr. Sanjay Kumar Tiwari, AC to GA 11
For Respondent no.5	:	Mr.Sandeep Shahi, Adv. Mr. Rohit Raj, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 22-01-2020 Heard both sides.

2. Petitioner filed this writ petition to quash the order dated 15.10.2013 passed by the D.C.L.R., Sonapur (Saran) in Mutation Appeal No.16 of 2012-13 by which the D.C.L.R., Sonapur (Saran) ordered for mutating the name of respondent no.5 with regard to the disputed land.

3. The admitted facts are that the land of Khata No.30, Sikmi Khata no.80, khesra no.162, area 16 katha 13 dhoor is recorded in the name of Jai Govind Pandey as raiyat and Ramdhyan Mahato as Sikmidar. Respondent no.5 purchased 8



katha 5 dhoor land of the aforesaid plot from the descendant of Sikmidar, on the basis of which respondent no.5 filed petition before the Circle Officer for mutating his name. The Circle Officer vide order dated 29.08.2012 rejected the petition for mutating the name of respondent no.5 on the ground that Sikmidar or the descendant of Sikmidar had no right to transfer the land and on the basis of such illegal sale deed, respondent no.5 filed petition for mutating his name but the D.C.L.R. by the impugned order (Annexure 3) came to the finding that since respondent no.5 purchased the land and came in possession, he ordered for mutating the name of respondent no.5 on the basis of possession.

4. Mr. Nagendra Rai, learned counsel for the petitioner, submits that admittedly the petitioner is a recorded tenant and the record of rights stands in the name of the grandfather of the petitioner but the petitioner was not made party. Sikmidar or his descendant has no right to sell the property. It is further submitted that on the basis of illegal sale deed obtained from the descendant of Sikmidar, the purchaser cannot get any title.

5. Mr. Sandeep Shahi, learned counsel for respondent no.5, in support of the order impugned submits that on the basis



of possession, the name of respondent no.5 was ordered to be mutated.

6. Having considered the submissions of both sides, I find that the D.C.L.R., Sonapur has illegally passed the order for mutating the name of respondent no.5 in the record of rights on the basis of sale deed executed in his favour by the descendant of Sikmidar without hearing the petitioner. Accordingly, order dated 15.10.2013 passed by the D.C.L.R., Sonapur (Saran) (Annexure 3) is set aside. The matter is remanded to the court of D.C.L.R., Sonapur (Saran) to pass order in accordance with law after hearing the petitioner and respondent no.5 afresh.

7. Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

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