

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.162 of 2020

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Rafique Alam Son of late Khurshid Alam, Resident of Village- Kathautia,
P.S.Barari, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reform Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reform Department, Govt. of Bihar, Patna.
3. The District Magistrate, Katihar, District- Katihar.
4. The Addl. Collector, Katihar, District- katihar.
5. The Land Reform Deputy Collector, District- Katihar.
6. The Anchaladhikari, Barari, District- Katihar.
7. Smt. Jaitun Nisha, Wife of late Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
8. Md. Mojahid , Son of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
9. Md. Naushad, Son of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
10. Md. Gulam Haider, Son of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
11. Md. Maruf , Son of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
12. Md. Munna Son of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
13. Bibi Mhinur Khatoon, D/o of late Md. Eqbal Hussain, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
14. Md. Umar Farooque Son of late Ishaque, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
15. Most. Bibi Akhtari, Son of late Wahab, W/o Md. Samshad Alam, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
16. Md. Sohaib, Son of late Tamiz, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
17. Asha Devi, D/o of late Prasad Pandit Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
18. Hemo Devi, D/o of late Prasad Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
19. Savitri Devi, D/o of late Prasad Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
20. Smt. Sarswati Devi, Wife of late Mahesh Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.



21. Mithun Kumar Pandit, Son of late Mahesh Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
22. Rakesh Pandit, Son of late Mahesh Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.
23. Abhinandan Kumar Pandit, Son of late Mahesh Pandit, Resident of Village- Jagdishpur, P.S. Barari, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra
For the Respondent/s : Mr.Mukul Prasad AC to GP18

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 16-01-2020 Heard both sides.

The petitioner, in this writ petition, seeks quashing of the order dated 19.07.2019 passed by the learned Chairman, Bihar Land Tribunal, Patna in B.L.T. case No. 540 of 2018 by which the learned Chairman set aside the order dated 15.02.2018 passed by the Additional Collector, Katihar in Revision Case No. 110 of 2017 as well as the order dated 03.03.2017 passed by the DCLR, Katihar in Mutation Appeal No. 798 of 2013-14 and affirmed the order dated 30.12.2013 passed by the Circle Officer, Barari in Mutation Case No. 02/2013-14.

The admitted facts are that Ismail, Tamiz and Hanif were the landlords of plot No. 723, 722 and 149. The grand mother of respondent No. 20 to 23 purchased 42 decimals of the land of plot No. 723 by registered sale deed dated 02.11.1972 from Bibi Azulan. Bibi Azulan purchase the same land from Md. Ismail, one of the owners of the land, on 21.05.1962. Most Sonia Devi, grand mother of respondent No. 20 to 23, got her name mutated in Mutation case No. 329 of 1972-73 and Jamabandi No. 1323 was created in her name.



Plot No. 722 area 0.28 decimal and plot No. 149 area 0.25 decimal were transferred by Hanif and Tamiz through registered sale deed dated 24.07.1973 and there is no dispute about the same but the petitioner purchased 18 decimal of land of plot No. 723 from the descendants of Hanif and Tamiz and on the basis of such purchase the petitioner of the present case and O.P. No. 2 before the B.L.T. filed Mutation Case No. 2600 of 2009-10 before the Circle Officer. The Circle Officer by order dated 03.12.2009 dismissed the Mutation Case holding that Ismail had already sold entire land of plot No. 723 in favour of Bibi Azulan in the year 1962 and Bibi Azulan sold the land in favour of Most Sonia Devi in the year 1972. The land was recorded in the name of Sonia Devi, grand mother of respondent No. 20 to 23. On Appeal, the DCLR ordered for mutation of the name of the petitioner with regard to land purchased by him. The respondent No. 20 to 23 preferred revision but the same was dismissed and the order of DCLR was affirmed with regard to mutation of 18 decimals of land of plot No. 723. The learned Chairman allowed the case of respondent No. 20 to 23 holding that the land had already been recorded in the name of respondent No. 20 to 23 on the basis of the sale deed and the petitioner is the subsequent purchaser, therefore, the order for mutating the name of petitioner with regard to 18 decimals of land of plot No. 723 by subsequent sale deed is illegal and the petitioner, if so advised, may file Title Suit.

The learned Chairman, B.L.T. has rightly held that the DCLR and Additional Collector have erroneously ordered for mutating the name of the petitioner with regard to 18 decimals of land of plot No. 723 which was purchased by Bibi Azulan through registered sale deed in the year 1962 and she transferred



the entire 42 decimal of land of plot No. 723 in favour of grand mother of respondent No. 20 to 23, whose name was mutated in the year 1973, as no land is left out and the petitioner as subsequent purchaser from other co-sharer has got no right for mutating his name unless the question of title is decided by a competent Civil Court.

Having considered the facts aforesaid, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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