

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4501 of 2021

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Kumar Gaurav Son of Late Jagdish Prasad @ Jagdish Prasad Gupta Resident
of Gaya Road, Bhadauni, Gondapur, P.S. and District- Nawada, Pin- 805110
... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Registration, Govt. of Bihar.
2. The Principal Secretary, Department of Registration, Govt. of Bihar
3. The Inspector General of Registration, Government of Bihar, Patna
4. The District Magistrate-cum-Collector, Nawada, Bihar
5. The Deputy Collector Land Reforms, Rajauli, District- Nawada, Bihar
6. The District Registrar, Nawada
7. The District Sub-Registrar, Nawada
8. The Circle Officer, Akbarpur, District- Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prafull Chandra Jha, Advocate Mr. Ranjan Kumar Dubey, Advocate Mr. Avinash Chandra, Advocate
For the State	:	Mr. Nadim Seraj, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 28-06-2023

1. Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application
for the following relief(s):

“(i) For issuance of writ in the nature of certiorari for quashing the letter no.159 dated 19.01.2016, issued by the Circle Officer, Akbarpur in favour of Sub-Registrar, Rajauli by which land of the petitioner bearing its C.S. Khata No.165, C.S. Plot No.491 Area 2 Acre 20 decimals Corresponding to R.S. Khata No.279,



R.S. Plot No.806 (Area 1 Acre 22 Decimals), R.S. Plot No.782 (Area 1 Acre 01 Decimal) has been declared/shown as Govt. land contrary to the fact that for same piece of land one T.S. No.202/2013 was filed by vendor of petitioner against State of Bihar and others which was decided in favour of vendor of petitioner on contest vide his judgment and decree dated 20.08.2018.

(ii) For issuance of writ in the nature of command directing the Circle Officer, Akbarpur, District-Nawada to grant up to date rent receipt in the name of petitioner for the piece of land in question C.S. Khata No.165, C.S. Plot No.491 Area 2 Acre 20 decimals Corresponding to R.S. Khata No.279, R.S. Plot No.806 (Area 1 Acre 22 Decimals), R.S. Plot No.782 (Area 1 Acre 01 Decimal).

(iii) For issuance of writ in the nature of mandamus commanding and directing the District Sub-Registrar Rajauli, District-Nawada to register the sale deed dated 12.11.2020 as produced by petitioner vide Annexure-9.

(iv) For issuance of any other relief/reliefs for which petitioner deemed entitled to.”

3. At the outset, learned counsel for the petitioner submits that in view of the developments having taken place during pendency of the writ application, he will not be pressing the prayer made in paragraph no.1(iii) to the writ application.



4. The dispute in this case relates to an area of 1.22 acres in R.S. Plot no.806 and 1.01 acres in R.S. Plot no.782, both in R.S. Khata no.279, C.S. Khata no.165, C.S. Plot no.491 measuring 2.20 acres in Mauja Badail, Circle and P.S. Akbarpur in the District of Nawada. The land in question was purchased by the petitioner for valuable consideration by a registered sale deed dated 24.7.2018 (Annexure-5) from Sri Krishna Prasad Bhojpuri and Sri Vishwanath Prasad Bhojpuri.

5. Learned counsel for the petitioner submits that on account of some error in the entry made in the revisional survey khatiyan with respect to the suit land wherein in the remark column, the name Bihar Sarkar was entered and illegal possession in the name of Triveni Prasad Singh was shown, the vendors of the petitioner filed Title Suit no.202 of 2013 in the Court of learned Sub Judge VII, Nawada for a declaration that the revisional survey entry made in R.S. khatiyan with respect to the suit land is wrong, illegal, inoperative and not binding on the plaintiffs. Further, prayer was made for confirmation of possession of the plaintiffs with respect to the suit land and for cost. By judgment dated 20.8.2018 (Annexure-4) and decree dated 1.9.2018, the said title suit was decreed in favour of the vendors of the petitioner. The title and possession of the



petitioner's vendors were declared and confirmed on the suit land. Learned counsel further submits that it was during pendency of the said suit that the petitioner purchased the land in question by a registered sale deed dated 24.7.2018.

6. It is further submitted that on the suit having been decreed, the name of the petitioner was mutated but as the Revenue Authority were not correcting the record of rights and the petitioner was not able to sell the land, the petitioner approached this Court by filing CWJC no.12635 of 2019. The said writ application was dismissed by the learned Single Judge by order dated 25.11.2020 (Annexure-12) mainly on the ground that as the appeal filed by the State of Bihar being Title Appeal no.27 of 2019 was pending, the matter being subjudice in appeal, the learned Single Judge was of the opinion that direction cannot be issued to correct the record of rights under writ jurisdiction. A Letters Patent Appeal being LPA no.129 of 2021 was preferred by the petitioner which was heard along with one another appeal ie LPA no.582 of 2021. The appellants in both the appeals being primarily aggrieved for the reason that the sale deed was not being registered, both the appeals were taken up together for consideration by the learned Division Bench. Taking note of various reasons including that the



Registering Authority cannot refuse to accede to the request of the parties for registering a document on being shown valid title documents, the learned Division Bench of this Court by its common judgment dated 7.11.2022 was pleased to allow both LPA no.129 of 2021 and LPA no.582 of 2021 directing the Registering Authority to register the land after being satisfied that the documents offered on behalf of the appellant satisfy other requirements and formalities.

7. Thus, in view of the judgment dated 7.11.2022 allowing the two appeals including LPA no.129 of 2021 wherein the petitioner herein was the appellant and the categorical direction therein to the Registering Authority to register the land, as stated above, learned counsel for the petitioner submits that he is not pressing the relief prayed for in paragraph no.1(iii) quoted herein above.

8. Learned counsel for the petitioner further submits that by Letter no.159 dated 19.1.2016 (Annexure-1), the Circle Officer, Akbarpur has sent a letter to the Sub Registrar, Rajauli. It has been stated therein that along with the letter is enclosed a list of all the plots belonging to the Government in the revenue village under Circle Akbarpur. Referring to the relevant page of the said list enclosed with the letter dated



19.1.2016 as Annexure-1 to the writ application, learned counsel for the petitioner submits that the same contains the details of the land of the petitioner ie area of 1.01 acres of R.S. Plot no.782 in R.S. Khata no.279 and an area of 1.22 acres of R.S. Plot no.806 in R.S. Khata no.279. Referring to the R.S. khatiyan, it was submitted that in the column with respect to the possession, the name of one Triveni Prasad Singh was recorded as *Avaidh Dakhalkar* (ie in illegal possession).

9. At this stage, learned counsel in reference to the judgment in the Title Suit no.202 of 2013 filed by the vendors of the petitioner submits that besides the State of Bihar through the Collector, Nawada and the Anchal Adhikari (Circle Officer), Akbarpur, the two daughters of Late Triveni Prasad Singh also were defendants therein and thus the judgment and decree (Annexure-4) obtained by the vendors of the petitioner was binding not only on the State of Bihar but also on the heirs of the so called *Avaidh Dakhalkar* ie Triveni Prasad Singh.

10. Learned counsel lastly submitted that ever since the mutation application of the petitioner was allowed and correction slip issued, the petitioner started to pay rent and he also got Land Possession Certificate from the Circle Officer, Akbarpur. The petitioner started to pay rent to the State of Bihar



and also got rent receipts.

11. Learned counsel for the petitioner further submits that he has filed a second supplementary affidavit on 17.3.2023. In respect to the averments made therein, it is submitted that inspite of the judgment dated 7.11.2022 allowing LPA no.129 of 2021, the respondent authorities did not act as directed in the said judgment thus leading to the filing of a contempt application. On the contempt application being filed, the respondents allowed the registration of the property. However, now they are not allowing the names of the new owners to be mutated.

12. It is submitted that with respect to the property in question, the name of the petitioner was mutated pursuant to order passed in Mutation Case no.555-R-27/2018-19. Subsequently, the Circle Officer, Akbarpur wrote a letter to the Deputy Collector Land Reforms, Rajauli ('D.C.L.R., Rajauli' in short). On the basis of the said letter, Mutation Appeal no.28 of 2019-20 was initiated and by order dated 24.11.2020 (Annexure-14) passed by the D.C.L.R., Rajauli, the order of the Circle Officer whereby the name of the petitioner had been mutated was set aside. Against the order passed by the D.C.L.R., Rajauli allowing the mutation appeal, the petitioner



preferred Mutation Revision Case no.21/2020-21 before the Additional Collector, Nawada which was disposed of by order dated 10.8.2021. In the concluding paragraph of the said order, the Additional Collector observed that the order dated 24.11.2020 had been passed by the D.C.L.R., Rajauli without hearing the Revision applicant (petitioner herein). As such, the matter was remanded to the D.C.L.R., Rajauli that he will pass a reasoned order after hearing the parties. In the opinion of the Court, there remains no doubt that even though the Additional Collector in his order dated 10.8.2021 may not have expressed in so many terms, however, by necessary implication, the order passed by the D.C.L.R. was set aside by him.

13. On the matter being remanded from the Additional Collector, the Mutation Appeal no.28/2019-20 was heard by the D.C.L.R., Rajauli and by order dated 3.12.2021, he concluded the said appeal observing that it will not be proper to pass any orders in view of the pendency of the title suit in the District Court at Nawada.

14. In the opinion of the Court, the consequence of the proceedings with respect to mutation is that the order of mutation passed by the Circle Officer in favour of the petitioner in Mutation Case no.555-R-27/2018-19, though was set aside by



the D.C.L.R., Rajauli in Mutation Appeal no.28/2019-20, however, on the orders of the D.C.L.R. being set aside (impliedly on account of remand) by the Additional Collector in Mutation Revision Case no.21/2020-21, the order of mutation in favour of the petitioner stands today.

15. In view of the above, on learned counsel for the respondents being confronted with the facts that when there is a judgment and decree in favour of the vendors of the petitioner in the title suit filed by them as also there is an order of mutation in the petitioner's favour then under what circumstance, could the land in question be put in the list of land being described as '*Anabad Bihar Sarkar*' and '*Anabad Sarvsadharan*' and under what circumstances rent receipts were not being issued in favour of the petitioner, there was no response forthcoming.

16. This Court holds that in view of the judgment and decree dated 20.8.2018 and 1.9.2018 passed in Title Suit no.202 of 2013 by the learned Sub Judge VII, Nawada with respect to the land in question and wherein the State of Bihar through the Collector as also the Circle Officer were parties, the land of the petitioner could not be put in the list as enclosed with the letter dated 19.1.2016 of the Circle Officer, Akbarpur of



the land described as *Anabad Bihar Sarkar*’ and *‘Anabad Sarvsadharan*’ and the same is set aside to the extent that the petitioner’s land is concerned.

17. This Court also holds that the land in question having been mutated in favour of the petitioner by an order passed by the Circle Officer in Mutation Case no.555-R-27/2018-19 and the order setting aside the same passed by the D.C.L.R. having itself been quashed by the Additional Collector, the order of mutation in favour of the petitioner remains and in such circumstances, the respondent authorities, on payment of rent by the petitioner cannot refuse to grant rent receipt in the petitioner’s name.

18. It is directed that on payment of rent, the Circle Officer, Akbarpur, District Nawada (respondent no.8) shall issue rent receipt to the petitioner.

19. The writ application stands allowed with the above observations and directions.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	03.05.2023
Uploading Date	28.06.2023
Transmission Date	

