

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5099 of 2021

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Mahendra Prasad son of Ram Avtar Prasad Resident of Village- Nandpur Tola
Padalubigha, Police Station and Anchal Nardiganj, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Revenue and Land Reforms, Govt. of Bihar
2. The Collector, Nawada
3. The Additional Collector, Nawada
4. The Deputy Collector Land Reforms, Nawada sadar, Dist- Nawada
5. The Anchal Adhikari Nardiganj, District- Nawada.
6. Chitranjan Saxena. late Jagat Prasad Singh Resident of village- Nandpur Tola Padalubigha, Police Station and Anchal Nardiganj, District- Nawada
7. Pravin Singh son of Late Jagat Prasad Singh Resident of village- Nandpur Tola Padalubigha, Police Station and Anchal Nardiganj, District- Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Adv. Mr. Abhishek, Adv.
For the Respondent/s	:	Mr. Raj Kishore Roy, Gp-18

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 20-06-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. Learned counsel for the petitioner submits that
notices have already been issued in this writ petition vide order
dated 14.11.2022. Report of service of notice has come that the
notice was served on the brother of the private respondent. In
this regard, counsel for the petitioner has filed Interlocutory
Application No. 1 of 2023 and submits that the person who

received the notice is the adult member of the family and respondent no. 6 and 7 both are full brothers. Therefore, acceptance of service of notice be treated as valid, as they are joint family members.

3. In this view of the matter, this Interlocutory Application No. 1 of 2023 is allowed and the service of notice upon respondent no. 7 is validly served. Since, respondent no. 6 himself received the notice which has already been served, therefore, this case is ready for hearing.

4. From the record, it also transpires that one month has already been lapsed from the date of receiving of the said notice by both respondent no. 6 and respondent no. 7.

5. Learned counsel for the State has submitted the hard copy of the counter affidavit before the Court, which is hereby accepted. He submits that soft copy has also been filed and receipt is attached.

6. Learned counsel for the petitioner submits that the present writ petition has been filed with a limited prayer. Counsel submits that he has filed this writ petition for setting aside the order dated 14.02.2020 passed by Anchal Adhikari, Nardiganj, District- Nawada in Mutation Case No. 1261 R27/2019-2020 and 1270 R27/2019-2020 by which, he has

rejected the claim of the petitioner for mutation vide order dated 25.09.2019 passed by the Appellate Authority *i.e.* the Deputy Collector Land Reforms, Nawada Sadar, District- Nawada in Mutation Appeal No. 09/2018-19 (Annexure- 2).

7. Counsel for the petitioner submits that in the counter affidavit, it has been categorically mentioned that title suit is pending for the said land between the same set of parties and, therefore, in compliance of Section 6(12) of the Bihar Land Mutation Act, 2011 (hereinafter referred to as ‘the Act of 2011’), mutation of a holding or a part thereof shall not be allowed in cases in which Title Suit with regard to the holding or a part thereof is pending in the competent court.

8. Upon going through the pleadings of the parties and hearing them and also upon perusal of the position of law, there are three laws which are relevant for the purpose of adjudication of this case. Rule 11(7) and Rule 12(7) of the Bihar Land Mutation Rules, 2012 (hereinafter referred to as ‘the Rules of 2012’) and Section 6(12) of the Act of 2011 which are as follows:

“Rule 11(7). After the disposal of the mutation appeal, the Land Reforms Deputy Collector shall return the case record to the Circle Officer concerned

for the implementation of his order.

Rule 12(7). *After the disposal of the mutation revision application, the Collector/ Additional Collector shall return the case-record to the Circle Officer concerned for implementation of his order.*

Section 6(12). *Mutation of a holding or a part thereof shall not be allowed in cases in which Title Suit with regard to that holding or a part thereof is pending in the competent court.”*

9. Learned counsel for the petitioner further submits that according to the above Rules, the Anchal Adhikari, Nardiganj, District- Nawada is bound to implement the order passed in mutation appeal by the Deputy Collector Land Reforms, Nawada Sadar, District- Nawada.

10. Upon conjugal reading of the same, this Court is of the view that during pendency of the revision, the Anchal Adhikari, Nardiganj, District- Nawada ought to restrain himself from mutation, even after disposal of the mutation appeal, as the word, case record used in Rule 11(7) and in Rule 12(7) of the Rules of 2012 are identical and with a view to avoid any complication during pendency of revision, the Anchal Adhikari, Nardiganj, District- Nawada ought to stop himself from

mutation.

11. In the present case, the revision petition has already been disposed off and order of Revisional Court is Annexure- A to the counter affidavit in which, the Revisional Court has ordered that since, Title Suit No. 41 of 2020 is pending in the Civil Court, therefore, he restrained himself from passing any order and also ordered that further action shall take place as per the result of the title suit.

12. On this point, counsel for the petitioner has specifically submits that the order of Appellate Court which is Annexure- 2 is dated 25.09.2019, whereas as per the number of title suit, it is of 2020 being Title Suit No. 41 of 2020. He submits that the Appellate Court has passed order prior to filing of the title suit, therefore, Section 6(12) of the Act of 2011 shall become operative from the date of institution of the title suit which is of the year 2020 and hence, the order of mutation passed prior to title suit may be restrained.

13. Learned counsel for the State submits that the position of law is very clear on this issue. He fairly submits that the order passed by the Appellate Court shall prevail but it shall be subject to the final decision of the Title Suit No. 41 of 2020.

14. In this view of the matter that both the learned

counsels have fairly interpreted the position of law, this Court directs that the order passed by the Appellate Court vide its order dated 25.09.2019 passed by the Deputy Collector Land Reforms, Nawada Sadar, District- Nawada in Mutation Appeal No. 9 of 2018-19 shall continue till pendency of the Title Suit No. 41 of 2020 and its validity shall be the subject matter of the result of the title suit.

15. In this view of the matter, the Anchal Adhikari, Nardiganj, District- Nawada is directed to do the needful.

16. With this observation, the present writ petition stands allowed.

(Dr. Anshuman, J.)

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CAV DATE	
Uploading Date	
Transmission Date	