

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3851 of 2016

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Bhagwan Prasad , son of Late Pyare Sao, Resident of Mohalla – Mainpura, P .
S. - Danapur, District - Patna

... .. Petitioner/s

Versus

- 1 . The State Of Bihar through District Collector, Patna
2. The Additional Collector, Patna
- 3 . The Deputy Collector, Land Reforms, Danapur, District- Patna
4. The Circle Officer, Danapur, District- Patna
- 5 . The Member, Bihar Land Tribunal, Patna
6. Nirmala Devi, Wife of Ramautar Rai, Resident of Mohalla- Mainpura,P . S.
- Danapur, District- Patna
7. Shiv Puyjan Prasad, Son of Late Pyare Sao , Resident of Mohalla –
Mainpur, P . S.- Danapur, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha
For the Respondent/s : Mithilesh Kr. Singh AC to SC - 15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 31-10-2023 Heard learned counsel for the parties.

2. This writ application has been filed for quashing order dated 6.2.2015 passed by the Member (Judicial), Bihar Land Tribunal, Patna in B.L.T. Case No. 638/2014, whereby the appeal filed by the petitioner has been dismissed. The further prayer is to quash the order dated August 1, 2013 passed by the



learned Additional Collector, Patna, in Mutation Revision Case No. 22 of 2007-08, whereby Mutation Revision filed by Respondent No. 6 has been allowed, and the order dated September 26, 2007 passed by Deputy Collector Land Reforms, Danapur, in Mutation Appeal No. 14/2006 has been dismissed.

3. It is submitted on behalf of the petitioners that the land in question is Survey Plot No. 239, Khata No. 44, area one, Katha Ten Dhurs. Situated at Mauza Mainpura, Police Station Danapur, District Patna, the other land belonged to one Pyare Sao, who got the same in partition from his brothers. Pyare Sao had three sons: Bhagwan Prasad, Murari Prasad, and Shiv Pujan Prasad. The applicant filed suit for partition bearing partition suit no. 18 of 1995 before Munsif Danapur on 9.3.1995 against his father and brothers for partition of joint family property. Via judgment dated 19.3.1999, the suit was decreed, and he got 1/4th share in Scheduled II of the plaint and Schedule "Ka" of the written statement. The decree was prepared on 26.3.1999; thereafter, a separate Takhta was carved out; a final decree was prepared on 6.3.2002; the land was mutated in favor of the applicant, and Jamabandi No. 2594 was created. The applicant has been in possession of the land in question. The aforesaid land, though falling to the share of the applicant, was sold by the



applicant's brother to one Dipak Kumar via a registered sale deed dated 1.2.2003. Subsequently, the petitioner filed title suit no. 46 of 2003 before the learned Sub-Judge 1st Danapur for cancellation of the sale deed, which was decreed on 30.6.2004 in favor of the petitioner. Dipak Kumar made an application for mutation, but the same was rejected. Subsequently, Dipak Kumar sold the land in favor of Opposite Party No. 5 Nirmala Devi through sale deed No. 3378 dated August 17, 2006, and later made an application for mutation, and the Circle Officer passed an order mutating her name via order dated August 5, 2006. When the petitioner came to know about the said order, he challenged the said order by filing an appeal via order dated September 26, 2007, before D.C.L.R. Danapur, who allowed the appeal and set aside the order passed by the Circle Officer. Against that order, O.P. No. 5 filed a mutation revision before Additional Collector Patna. The said revision application was allowed, against which the present application has been filed. Subsequent to that, Shiv Pujan Prasad (respondent No. 7) and Murati Prasad and their sons filed title suit no. 186 of 2007 for declaring the preliminary and final decree passed in title suit no. 18 of 1995 null and void. The said suit is pending before Sub-Judge 1, Danapur. The applicant has filed an execution case



before Munsif Danapur, which has also been stayed by filing an application under Order 21 Rule 29 read with Section 151 of the Code of Civil Procedure. Against the said order, the applicant has filed C.W.J.C. No. 7259 of 2012.

4. On the other hand, learned counsel for the state opposed the contention made on behalf of the petitioner and submitted that the impugned order is just and proper and does not require any interference by this Hon'ble Court. It is further submitted that the impugned order does not suffer from any infirmity and is based on a correct appreciation of the facts and circumstances of the case.

5. Having heard the rival submissions of the parties and considering the materials available on record, it is not in dispute that respondent No. 6, Nirmala Devi, is in possession of the land in question by constructing a house over the plot. The aforesaid finding of the Court below has not been disputed or controverted by learned counsel for the petitioner in the entire writ petition. It is a settled law that the creation or cancellation of Jamabandi does not create or extinguish any right or title for any person. As such, I do not find any error in the impugned order.



6. Accordingly, the writ petition is dismissed.

(Prabhat Kumar Singh, J)

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