

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7146 of 2021

Salahuddin Khan Son of Late Tulla Khan Resident of village- Chainpur, P.o.
and P.s.- Chainpur, District- Kaimur at Bhabhua

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms,
Bihar, Patna
2. The Additional District Magistrate, Kaimur at Bhabua
3. The Deputy Collector, Land Reforms, Bhabua, District- Kaimur at Bhabua
4. The Circle Officer, Chainpur, District- Kaimur at Bhabua
5. Brij Nandan Singh Son of Late Purushottam Singh Resident of village-
Chainpur, P.o. and P.s.- Chainpur, District- Kaimur at Bhabua
6. Brij Kishore Singh Son of Late Tulsi Singh Resident of village- Chainpur,
P.o. and P.s.- Chainpur, District- Kaimur at Bhabua

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Garg, Advocate Mr Shidharth Harsh, Advocate Mr S.S Dubey, D.Pandey, Advocates
For the Respondent/s	:	Nutan Sahay, AC to AAG 12

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 2 31-10-2023 Heard learned counsel for the petitioner and the State.
2. Writ petition has been filed for quashing order dated 24.12.2019, passed by the Member (Administrative), Bihar Land Tribunal in BLT Case No. 559 of 2018 by which he has affirmed order dated 5.12.2017, passed by the Additional District Magistrate, Kaimur in Mutation Revision No. 53 of 2015-16 by which order dated 26.11.2014, passed by the DCLR, Bhabua and order dated 30.10.2011 passed by the CO, Chainpur in Mutation Case No. 1101 of 2011-12, was set aside.

3. It is the submission of learned counsel for the



petitioner that the impugned order is illegal in view of the fact that section 6(12) of the Bihar Mutation Act, 2011 came in existence from 22.12.2011, whereas the present Mutation Case No. 1101 of 2011-12 was filed on 20.10.2011. Therefore, old mutation Act will be applicable in the present matter. Hence, order passed by the BLT on the basis of section 6(12) of the Act is contrary to law and is fit to be quashed.

4. Learned counsel for the State submits that there is no illegality or irregularity in order dated 24.12.2019, passed by the Member (Administrative), Bihar Land Tribunal in BLT Case No. 559 of 2018 by which the Member (Administrative), BLT, has affirmed order dated 5.12.2017, passed by the Additional Collector, Bhabua. He submits that order dated 24.12.2019 has been passed by the BLT keeping in view the fact that the land in question is subject matter of Title Suit No.150 of 2009 which is still pending in the Civil Court in which petitioner is party. Moreover, parties before the BLT and in the title suit, are common. Learned counsel also submits that the Additional Collector, Bhabua, has rightly observed in order dated 5.12.2017 that scope of correction of Jamabandi is subject to the decision of Title Suit No.150 of 2009, pending before the competent Civil Court.



5. It is well settled that creation or cancellation of jamabandi neither create nor extinguishes right and title of any person. Besides this, order of the BLT has rightly considered the fact that when the title suits are pending before the Civil Court, action of the Circle Officer, Chainpur and the DCLR, Bhabua allowing the mutation case in favour of the petitioner of that case, is illegal and not sustainable in the eye of law. Parties before the BLT as well as land in dispute are common in the title suits. Absence of section 6(12) of the Act will have no bearing in the present case. Admittedly, title suit is pending between the parties with regard to the same land where right, title and possession are to be adjudicated.

6. Taking into consideration the entire facts and circumstances of the case and rival contentions of the parties, I am of the definite opinion that the learned Tribunal has committed no error in passing the impugned order. The findings recorded by the tribunal does not suffer from any fallacy.

7. The writ petition is accordingly dismissed.

(Prabhat Kumar Singh, J)

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