

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11111 of 2019

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Md. Mumtaz Husain son of Md. Late Ibrahim Hussain Resident of Mohalla-
Millat Colony, Bari Road, Gaya, P.S.- Civil Lines, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development Dept., Bihar, Patna.
2. Gaya Municipal Corporation, Gaya through its Chairman, District- Gaya.
3. The Municipal Commissioner, Gaya, Municipal Corporation, Gaya, District- Gaya.
4. The Revenue Officer, Gaya Municipal Corporations, Gaya, District- Gaya.
5. Sultan Aalam son of Md. Late Ibrahim Hussain Resident of Ward No. 23, Mohalla- Bari Road, Gaya, P.S. Civil Lines, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sudama Singh, Advocate
For the Respondent/s	:	Mr. Hussain Majid, Advocate
For the Corporation	:	Mr. Ravindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-09-2023

Heard Mr. Sudama Singh, learned counsel appearing

on behalf of the petitioner, Mr. Ravindra Kumar Priyadarshi,

learned counsel for the Gaya Municipal Corporation and Mr.

Hussain Majid, learned counsel for the State.

2. The petitioner has preferred the writ application on

being aggrieved by the order dated 14.12.2017, passed by the

Revenue Officer, Gaya Municipal Corporation, Gaya in Case

No. 188 of 2017 (Ra) as contained in Annexure - 5, whereby the

name of respondent no. 5 (Sultan Alam) has been entered in the

Revenue Register along with the petitioner.

3. It is submitted that the land, in question, was



purchased in the name of Abraham Hussain, son of Late Abdul Rahim, who happens to be father of the petitioner and private respondent no. 5. Subsequently, a private participation took place in the family and the land purchased under the Sale Deed No. 12774 of 1990 was allotted in the share of Gulam Sarvar and Gulam Anwar, who were nephew of the father of the petitioner and they have been coming in possession over Holding Nos. 367 and 368. The father of the petitioner, later on, executed a registered Deed of gift (Hibba Nama) on 04.04.1992 in favour of the petitioner and since then, the petitioner has been coming in peaceful possession of the said land.

4. It is the case of the petitioner that the respondent no. 5, who happens to be own brother, has been allowed to live in a rented room of the building, in question. In course of time, he by making some manufactured documents filed a petition before the Municipal Commissioner, Gaya prayed for mutation of his name over the disputed land. Surprisingly, the Circle Officer, Town Gaya illegally ordered to add the name of respondent no. 5 along with the petitioner without conducting any enquiry by an ex-parte Order dated 14.12.2017 in Case No. 188 of 2017(Ra). It is vehemently submitted that at no point of time, any enquiry has been conducted nor any notice or



opportunity of hearing has been given to the petitioner.

5. Learned counsel representing the Municipal Corporation, Gaya by filing a counter affidavit categorically submitted that the entry of the respondent no. 5 has been made on the basis of an application filed by the respondent no. 5, enclosing the Sale Deed and affidavit. He further submits that after considering the application and documents submitted by the respondent no. 5, a proceeding has been initiated wherein, the father of the petitioner and respondent no. 5 has filed an affidavit with categorical assertion that the petitioner on the basis of forged Hibba Nama, has entered his name in the Revenue Register as absolute owner, rather the fact remains that in partition of the family, the present property was divided equally between both the brothers. It is also submitted on behalf of the respondent Municipal Corporation that in course of inspection, the petitioner was also intimated, but he never shown any interest and, as such, considering the materials available on record and after hearing the father and respondent no. 5, the impugned order has been passed.

6. Further submission has also been made on behalf of the respondent Municipal Corporation as well as the State that against the order impugned, herein, the petitioner has remedy of



appeal under Section 143 of the Bihar Municipal Act.

7. Having heard the parties, *prima facie*, it is evident that any entry in the Revenue Record does not confer any right, title or interest on a person, whose name appears in records of rights. Entries on the Revenue Record have only for fiscal purpose.

8. If there is any dispute with respect to the title, more particularly when the mutation entry sought to be made on the basis of Will/Hibba Nama, the party who is claiming title over the property, in question, has the remedy to approach before the Civil Court of competent jurisdiction to get his right crystallized.

9. In view thereof, this Court does not find any reason to interfere in the matter.

10. It is needless to observe that the petitioner has efficacious remedy as indicated above.

11. The present writ application stands disposed of.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2023.
Transmission Date	NA

