

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18034 of 2015

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Basant Kumar Son of Late Dwarika Prasad Sah, Resident of Village and Police Station Nasariganj, District - Rohtas Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Circle Officer, Nasariganj, District Rohtas Sasaram.
3. Deputy Collector, Land Reforms, Bikramganj, Rohtas.
4. Additional Collector, Rohtas Sasaram.
5. Jugal Prasad @ Jugal Kishore Prasad S/o Late Dwarika Sah, Resident of village - Nasariganj, Police Station Nasariganj, District - Rohtas Sasaram.
... .. Respondents 1st Set
6. Bijay Kumar @ Rajendra Prasad.
7. Mahendra Prasad.
8. Birendra Kumar @ Birendra Prasad.
All sons of Late Dwarika Sah, Resident of Village - Nasariganj, Police Station Nasariganj, District - Rohtas Sasaram.

... .. Performs Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ram Chandra Prasad, Adv.
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13.
	:	Mr. Arya Achint, AC to AAG-13.
For the Res. No.5	:	Mr. S.K. Tiwary, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 11-09-2023

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

2. The present Writ Petition has been filed for quashing of the order dated 25.08.2015 passed in B.L.T. Case No.730 of 2014 by which the BLT case was dismissed and order passed by Circle Officer in mutation case, appeal by the Deputy Collector, Land Reforms and Revisional Case by Additional Collector has been affirmed.

3. Learned counsel for the petitioner fairly submits



that there is a concurrent finding of all the forums against the petitioner. He further submits that at the time of deciding the case, the Bihar Land Tribunal has not considered this aspect of the matter that there is already a Yaddasht Batwara prepared among the sons of Rajo Kunwar who accepted the equal shares of 1/5th each but subsequently after a considerable period of time, one of the brother who is private respondent no.5 in this writ petition, have challenged the mutation on the ground that there is already a registered gift deed executed by his Nani (Rajo Kunwar) in his favour and as such, the Circle Officer has mutated more land in favour of private respondent no.5 against which, the other brothers being aggrieved preferred revision and thereafter approached before the Bihar Land Tribunal but everywhere the petitioner lost.

4. The Bihar Land Tribunal had passed a specific order holding that the petitioner has option to knock the door of the Court regarding partition of disputed land in Civil Court and till the registered gift deed shall not be set-aside, no benefit shall be granted in favour of the petitioner.

5. Learned counsel for the petitioner has put emphasis on this ground that this Batwara is basically a Yaddasht Batwara in the nature of remembrancer and therefore unregistered Batwara is also a valid piece of document.



6. Learned counsel for the State submits that the said Batwara is not a legal one as all the heirs and legal representatives of the property had not accepted the said deed of partition. Admittedly, Rajo Kunwar has one daughter and the said daughter has five sons and two daughters. The said two daughters have not signed on the said Yaddasht Batwara which is alleged to be executed after 1956 when a daughter has got absolute right according to Hindu Succession Act, 1956.

7. In this view of the matter, this Court finds that there is no need to interfere in the order passed by Bihar Land Tribunal. The observation made by the Bihar Land Tribunal that petitioner has liberty to challenge the partition suit before the competent Civil Court shall remain active. It is observed that in the said partition suit, the two daughters of Rajo Kunwar shall also be the necessary party.

8. With this observation and direction, the present writ petition stands disposed off.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
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