

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15139 of 2015

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1. Abhay Kumar Singh @ Abhay Singh and Ors Son of Baduri Narayan Singh
 2. Ravindra Kumar Singh @ Ravindra Singh Son of Shri Baduri Narayan Singh
 3. Arvindra Kumar Singh @ Arvind Singh Son of Shri Baduri Narayan Singh
All residents of Village - Pachma, P.S. - Piro, District - Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Revenue Department, Bihar, Patna.
3. The Deputy Collector Land Reforms, Piro, Bhojpur.
4. The Circle Officer, Piro, Bhojpur.
5. Shakuntala Devi Wife of Janardan Prasad Singh Resident of Village - Pachma, P.S. - Piro, District - Bhojpur.
6. Uma Devi Wife of Late Raj Keshwar Pathak Resident of Village - Pachma, P.S. - Piro, District - Bhojpur presently residing at New Friend's Colony, Gali No. 2, Near Bajaj Show Room Pakri, Ara, P.S. - Nawada Town, District - Bhojpur Ara.
7. Dr. Prabash Kumar Son of not known Deputy Collector Land Reforms, Piro, P.S. - Piro, District - Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Singh
For the Respondent/s : Mr. Abbas Haider- Sc16

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 12-10-2023 Heard learned counsel for the petitioners and the State.

2. This writ petition has been filed for quashing order dated 20.07.2015 passed in Mutation Appeal No.40/2013-14



by Deputy Collector, Land Reforms, Piro, Bhojpur (respondent No.3) whereby the direction has been given to mutate the land in favour of private respondent no.5 after four months of disposal of appeal and return of mutation file to Circle Officer vide order dated 17.03.2015 and also the consequential order of Circle Officer, Piro dated 31.07.2015 mutating land in favour of respondent no.5 and also to take action against respondent no.7 for malafide and illegal action .

3 . Brief facts giving rise to the present writ petition is that petitioners filed mutation case No. 150/2013-14 to Circle Officer, Piro, Bhojpur for mutation of land in question in their favour. Thereafter, the Circle Officer vide order 29.11.2013 started the process of mutation in favour of the petitioners and directed to issue corrigendum and to make entry in register II. Thereafter, notices were issued to the concerned parties. In the meantime, private respondent No. 5 filed Mutation Appeal bearing No. 40 of 2013-14 on 09.01.2014 before the Deputy Collector Land Reforms, Piro, Bhojpur against order dated 29.11.2013 passed by the circle Officer Piro, Bhojpur. Petitioners who were opposite parties in the said appeal filed reply stating therein about factual position. The Deputy Collector Land Reforms vide order dated 17.03.2015 issued



direction to the Circle Officer, Piro to decide the matter afresh quashing dated 18.04.2013 passed by the Circle Officer, Piro and the record was returned to the Circle Officer. Again on 20.07.2015 the D.C.L.R., Piro , Bhojpur passed order to mutate the land in question to private respondent No. 5 and Circle Officer, Piro was directed to comply the said order. It is evident from order-sheet of Circle Officer that after order dated 17.03.2015, file was received by him, notices were issued to the parties and he was proceeding according to direction of the Appellate order dated 17.03.2015. Surprisingly, when he received order dated 20.07.2015 of the D.C.L.R., he passed consequential order of mutation in favour of private respondent No. 5 on 31.07.2015.

4. Learned counsel for the petitioners submits that from perusal of the records, it appears that after hearing the parties, the Deputy Collector Land Reforms passed order dated 17.03.2015 directing the Circle Officer to decide the matter afresh. However, again the D.C.L.R passed order dated 20.07.2015 directing the Circle Officer, Piro to mutate the land in question in favour of the private respondent No. 5. Learned counsel submits that without issuing show cause notice to the parties, the D.C.L.R vide order dated 20.07.2015 reversed the



earlier order dated 17.03.2015, which is illegal, arbitrary and non-est in the eye of law. It is submitted on behalf of the petitioner that once the Mutation Appeal No. 40/2013-14 was finally disposed of and order was passed on 17.03.2015, he became functus officio and he could not have reviewed his own order. Subsequent order dated 20.07.2015 of D.C.L.R., Piro, Bhojpur is without jurisdiction .

5 . Learned counsel for the State and the private respondents do not dispute the aforesaid submission and proposition of law.

6. Considering the rival submissions of parties and on going through the materials available on the record this Court is in agreement with the submission made on behalf of learned Counsel for petitioners. Once the final order was passed and case was disposed of by learned D.C.L.R. Piro, Bhojpur, he became functus officio and any order passed subsequently is without jurisdiction and non-est in the eye of law. Power of review is a creature of statute. There is no provision of review under Bihar Mutation Act 2011, as such, in absence of the same, the learned Deputy Collector Land Reforms, Piro, Bhojpur could not have reviewed his own order dated 20.07.2015. Hence, order dated 20.07.2015 passed by the



D.C.L.R., Piro, Bhojpur and consequential order dated 31.07.2015 passed by the Circle Officer are hereby quashed. In the light of the order dated 17.03.2015 passed in Mutation Appeal No. 40/2013-14 by the D.C.L.R., Piro , Bhojpur, matter is remanded to the Circle Officer, Piro, Bhojpur to proceed in the mutation case in accordance with law and to dispose of the same by a reasoned and speaking order within a period of six months from the date of receipt of this order.

7. Thus, writ petition stands allowed with the aforesaid directions.

(Prabhat Kumar Singh, J)

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