

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11631 of 2023

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Hareram Singh @ Hare Ram Son of Krishna Singh @ Krihnadeo Singh,
Resident of Village, P.O. and P.S.- Rajauli, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Collector, Nawada.
3. The Deputy Collector-Incharge Land Reforms, Nawada.
4. The Circle Officer, Nawada.
5. Aasha Singh, Wife of Late Kumar Bimal Prasad Singh, Resident of Village,
P.O. and P.S.- Rajauli, District-Nawada.
6. Saumitra Singh, son of Late Kumar Bimal Prasad Singh, Resident of
Village, P.O. and P.S. Rajauli, District-Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.S. Dwivedi, Sr. Advocate
		Mr .Parth Gaurav, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 31-08-2023 Heard learned Senior Counsel Mr. S.S. Dwivedi with
counsel Mr. Parth Gaurav and learned counsel for the State.

2. The present writ petition has been filed to set aside
the order dated 20.06.2023 passed by Additional Collector,
Nawada In Mutation Revision Case No. 77 of 2019-20.

3. Learned counsel for the petitioner submits that the
order passed by the revisional authority is without jurisdiction
and as such it requires interference by this Court under Article
226 of the Constitution of India. He further submits the
revisional court at the time of deciding the revision has entered

into the question of title and right of the property and therefore, the order passed by the revision court is non-jurisdictional.

4. Learned counsel for the State raised preliminary objection and submits that this writ petition is not maintainable due to the reason that the remedy lies to the petitioner is to file the case before Bihar Land Tribunal. Counsel for the State raised objection in the light of Section 9 and Section 15 of the Bihar Land Tribunal Act, 2009 [Bihar Act 9 of 2009]. According to the counsel for the State, the present case is covered under Bihar Land Mutation Act, 2011 [Bihar Act 23, 2011], which is a schedule Act under Section 9 of the Bihar Land Tribunal Act, 2009 and Section 15 of the Bihar Land Tribunal Act, 2009 states as follows:

15. Transfer of proceedings pending in Patna High Court/ State Government to the Tribunal. - All cases connected with the Acts/ Manuals dealt with under Section 9 of this Act and pending in the High Court of Judicature at Patna but excluding writ petitions filed under Articles 226 and 227 of the Constitution of India and cases pending with the State Government, immediately before the commencement of this Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of this Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement:

Provided further that it shall be open to the High Court of Judicature at Patna to remit the dispute pending adjudication in any writ proceeding

before it for adjudication by the Tribunal.”

5. Upon hearing the parties, this Court is of *prima facie* view that under Article 226 of the Constitution of India, High Court has power to entertain cases where extraordinary circumstances involved including the question of jurisdiction. Here in the present case, this Court finds that the revisional court has not decided the question of title or right, rather revision court has tried to interpret on the basis of different laws as in the Bihar Land Mutation Act, 2011. Definition of word mutation as made in Section 2(1) of the Bihar Land Mutation Act, 2011 [Bihar Act 23, 2011] empowers the quasi judicial court including the revisional court to pass order relating to mutation on the basis of instruments namely, Sale-Purchase, gift, Exchange, Partition of Holding, Inheritance/succession intestate or testamentary, Will, Order/Decree of court under Code of Civil Procedure, 1908, Order/Decree of court under The Bihar Land Disputes Resolution Act, 2009, Settlement/Transfer/Assignment of Public Land by competent authority, Acquisition under the Land Acquisition Act, 1894, Land granted under the Bihar Bhoodan Yagna Act, 1954, Settlement of Homestead under the Bihar Privileged Persons Homestead Tenancy Act, 1947, Tripartite purchase of raiyati

land for Mahadalit families under Purchase Policy, 2010, Restoration of land to former raiyats under the Kosi Area (Restoration of Lands to raiyats) Act, 1951, Restoration of land to former raiyats under the Land Acquisition Act, 1894, Settlement of surplus land under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, Through any other means/instrument which the Government may notify from time to time, as such at the time of passing order on mutation the revisional court has empowered to discuss the materials present into those instruments.

6. In this view of the matter, this Court is not inclined to interfere in the revisional order but in compliance of Section 15 of the Bihar Land Tribunal Act, 2009, directs the Registrar General to transfer this case before Bihar Land Tribunal forthwith and the Bihar Land Tribunal is directed to dispose off this case within nine months upon hearing all the parties concerned.

7. With the aforesaid observation and direction, the present writ petition stands disposed off.

(Dr. Anshuman, J.)

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