

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15477 of 2022

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Anand Shankar Mishra Son of Sri Dev Shanakr Mishra Resident of Station Road, Mohalla-Hanuman Mandir Ward No. 18, P.S.-Madhubani, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Government of Bihar, Old Secretariat, Patna-800001,
2. The Add. Chief Secretary, Department of Revenue, Government of Bihar, At Old Secretariate, P.S. Sachivalaya, Patna, Bihar.
3. Circle Officer, Rahika Circle Block-Rahika, District-Madhubani.
4. Deputy Collector Land Revenue, Madhubani Sadar Sub Division, District -Madhubani.
5. The District Collector Cum District Magistrate District-Madhubani, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amalendu Shekhar Thakur, Advocate
For the Respondent/s : Mr. Raj Kishore Roy (GP 18)

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 07-04-2023 Heard learned counsel for the parties.

The petitioner has filed the instant writ application for
the following relief(s):-

“That the petitioner, by way of this writ application seek indulgence of this hon'ble court to issue a writ of mandamus or any other appropriate writ/writs, order or direction in the nature thereof calling for the records pertaining to the Order dated 5.4.2021, 23.8.2021 and 5.11.2021 passed by the Respondent no.3 herein frustrating the motto of establishing the RTPS unilaterally and rejected the Mutation application of the Petitioner, then direction to the respondents to do the mutation after creating Jamabandi in their name. And for the following reliefs:

(i) For direction to the respondents to do



mutation/Dakhil Kharij of the commercial land being 1 katha i.e 1900 square feet in Mauza Chakdah, ward no.17, post office Road thana no.33 Tauzi no.6424, Jamabandi No.5229, khata no.248, Khesra No.539(old), 242(New) contained in Annexure no. 'I'.

(ii) For direction to the respondents to restrain from illegally and unauthorizedely putting on hold the mutation, arbitrarily on the pretext of stay on the said land as well pending CWJC No.11776 of 2016.

(ii) For direction to the Respondents to stop harassing the petitioners by their arbitrary, illegal and prejudiced acts.

(iv) Pass any other order which this Hon'ble Court may deem fit and proper in the light of the facts mentioned hereinafter."

At the outset, learned counsel for the State submits that the petitioner has an alternative and efficacious remedy of preferring an appeal under section 7 of the Bihar Land Mutation Act, 2011.

In response, it is submitted by learned counsel for the petitioner that the prayer for mutation of the petitioner was rejected firstly by order dated 5.4.2021 and, thereafter, again by order dated 23.8.2021. Both the rejections are on non est ground only for the reason of pendency of some writ application in this Court wherein this petitioner is not even a party. It is submitted that the pendency of the said writ application cannot come in way of the authorities concerned in mutating the land



in question in favour of the petitioner. The order is patently illegal.

In the opinion of the Court, the petitioner may raise all these points in the appeal which he may file under section 7 of the Bihar Land Mutation Act, 2011 before the Deputy Collector Land Reforms, Madhubani. If an appeal is filed, the Deputy Collector Land Reforms, Madhubani will take into consideration all the points which may be raised by the petitioner.

The writ application stands disposed of.

It goes without saying that while considering the petition of the petitioner for condonation of delay in filing of the appeal, the authority shall take into consideration the period for which the instant application was being pursued by the petitioner in this Court.

In case the appeal is preferred by the petitioner within a period of four weeks from today, the Deputy Collector Land Reforms, Madhubani will dispose of the same in accordance with law expeditiously.

(Partha Sarthy, J)

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