

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5050 of 2017

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Ram Narayan Shaw S/o Late Ram Chandra Sah, resident of Village- Gangajal
Tola, P.S.- Sonapur, District- Saran, at present residing at 64, M.N.K. Road,
North Baro Nagar, Alam Bazar, Kolkata, West Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Collector, District- Saran.
4. The Deputy Collector, Land Reforms, Sonapur, Saran.
5. The Anchal Adhikari, Sonapur, District- Saran.
6. Raushan Kumar, S/o Vijay Kumar, resident of Village- Mirjapur, Gangajal, P.O. and P.S.- Sonapur, District- Saran.
7. Bindeshwari Rai, S/o Late Kanchan Rai, resident of Village- Gangajal Tola, P.O. and P.S.- Sonapur, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Jha, Advocate

For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

Mr. Saurabh Kumar, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 05-08-2024

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

2. The present writ petition has been preferred for the



following relief/s:-

“(i) For quashing the order dated 21.09.2016 passed by Respondent No.4 in Mutation Appeal No.3/2016-17, by which he has been pleased to reject the appeal filed by Respondent No.6 and has further been pleased to direct for maintaining the area of the land in question from deducting the lands from Jamabandi No. 981 running in the name of ancestor of the petitioner.

(ii) For also directing the respondents not to deduct any land from Jamabandi No. 981 running in the name of the ancestor of the petitioner so far the same relates to the connected sale deed no. 709 dated 05.03.1994 purchased by Respondent No.7 from Respondent No.6.

(iii) For restraining the respondent authorities from disturbing the peaceful possession of the petitioner over the land recorded in Jamabandi No.981.

(iv) For restraining the respondents from issuing any rent receipts in favour of Respondent No.7 pursuant o the order impugned dated 21.09.2016 passed by Respondent No.4 as contained in Annexure-6.

(v) For any other relief or reliefs for which the petitioner may be found entitled



in the facts and circumstances of the case.”

3. The land in question appertains to 11 Katha 02 Dhurs of Khesra No. 543, pertaining to Khata No.57, Thana No. 117, Mouza-Gangajal, Anchal-Sonepur, Distirct-Saran. The aforementioned land is recorded in the name of the ancestor of the petitioner, namely, Jata Sah and his two full brothers, namely, Bhulotan Sah and Aklu Sah (grandfather of the petitioner). It is pertinent to note the submission of the petitioner’s counsel that Bhagru Sah, son of Jata Sah, died unmarried and Bulotan Sah died issueless, hence, the entire land came in the share of Aklu Sah (grandfather of the petitioner).

4. It is next submitted by learned counsel representing the petitioner that petitioner is in peaceful possession of the land in question and is paying rent to the State of Bihar, having Jamabandi No. 981, which continues to run in the name of Jata Sah.

5. It is further submitted that Jata Sah sold 1 Bigha, 1 katha and 05 dhurs land pertaining to Plot No. 3068 of Khata No. 57 to one ‘Sirbal Narain Singh’ and ‘Bigu Singh’ *vide* sale deed No. 2962 dated 09-06-1953, upon which purchasers came in possession and a Jamabandi No. 1360 was created and rent was being paid to the State by purchasers. Respondent No. 6 is



the grandson of Sirbal Narain (purchaser) and he came to learn that 01 khata and 02 dhurs of land had been carved out from his Jamabandi No. 1360 through Mutation Case No. 3815/2015-16, *vide* order dated 29-01-2016.

6. It is next submitted that claim of respondent No. 7 was that Jata Sah (recorded tenant) had a son, namely, Bhagru Sah, who sold the land in question to one 'Bigu Singh' and he had two sons, namely, 'Jagal Singh' and 'Satya Narain Singh', who sold the land in question measuring 11 katha 02 dhurs of Khesra No. 543, khata No. 57 to respondent No.7 *vide* sale deed dated 05-03-1997.

7. Being aggrieved by the order of mutation dated 29-01-2016, respondent No. 6 preferred Mutation Appeal No. 03/2016-17, before the respondent No. 4 and Mutation Appeal No. 03/2016-17 was disposed of *vide* order dated 21-09-2016 (Annexure-6), by which direction was given for deduction of land in question from Jamabandi No. 981 after maintaining the total area of Jamabandi No. 1360/1552 as intact.

8. Learned counsel for the petitioner submits that the order dated 21-09-2016, is wholly illegal, arbitrary and without jurisdiction, as the same has been passed behind the back of the petitioner.



9. Learned counsel for the State submits that the Mutation Appeal No. 03/2016-17 may be remanded back to the respondent No. 4 for passing afresh order after hearing the parties concerned.

10. Having considered the facts and circumstances of the present case and on perusal of the impugned order dated 21-09-2016, it appears that the petitioner was not made a party nor any notice was issued to him at any stage. It is surprising to note that a person, who is likely to be affected adversely by the impugned order was neither made party to the proceeding nor he was ever heard. Hence, the impugned order dated 21-09-2016 is arbitrary and without jurisdiction as the same has been passed behind the back of the petitioner. Consequently, the impugned order dated 21-09-2016 is unsustainable in the eyes of the law and is hereby quashed.

11. In view of the above, the Mutation Appeal No. 03/2016-17 is remanded back to the Deputy Collector, Land Reforms, Sonapur, Saran (respondent No. 4), who shall be under legal obligation to pass a fresh reasoned and speaking order in accordance with law after affording opportunity of hearing to the parties concerned within a period of four months from the date of receipt/ production of a copy of this order.



12. With the aforesaid observation/direction, the writ
petition stands disposed of.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10-08-2024
Transmission Date	N/A

