

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1946 of 2017

Nutan Devi daughter of Late Urmila Devi and Late Singheshwar Sah and wife of Arjun Singh, resident of MTN Ghosh Raod, Muhalla Champa Nagar in the town of Bhagalpur, PS- Nath Nagar, Dist- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
 2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
 3. The Collector, Bhagalpur.
 4. The Additional Collector, Bhagalpur.
 5. The Deputy Collector Land Reforms, Bhagalpur.
 6. The Circle Officer, Nath Nagar, Dist- Bhagalpur.
 - 7.1 Nutan Devi, wife of Late Shiv Shankar Sah.
 - 7.2 Kundan Kumar, son of Late Shiv Shankar Sah.
 - 7.3 Jyoti Kumari daughter of Late Shiv Shankar Sah.
 - 7.4 Juhi Kumari daughter of Late Shiv Shankar Sah.
 - 7.5 Julie Kumari (Minor), daughter of Late Shiv Shankar Sah.
 - 7.6 Mili Kumari (Minor) Daughter of Late Shiv Shankar Sah.
- Respondent no. 7(1) to 7(6) resident of MTN Ghosh Road, Bilhari Sthan, Champa Nagar P.S. Nath Nagar, District Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC- 25

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 18-07-2024

Re : IA No. 01 of 2019

This Interlocutory application has been filed for substituting the heirs of respondent No.7, namely, Shiv Shankar Sah, who died on 20-07-2019, leaving behind his heirs and legal representatives, whose details are mentioned in paragraph No.2



of this application.

2. Learned counsel for the petitioner submits that this substitution petition is well within the statutory period of limitation.

3. In view of the facts and circumstances of the case and averments made in the application, this interlocutory application is allowed. The name of the respondent No.7 is expunged from the array of respondents and in his place, his legal heir and representatives, mentioned in paragraph No.2 of this application be substituted, as respondent No. 7.1 to 7.6, respectively.

4. Office is also directed to expunge the name of the respondent No.7 and substitute his heirs and legal representatives in his place in the cause title of the writ petition.

5. Accordingly, IA No. 01 of 2019 stands disposed of.

Re : CWJC No. 1946 of 2017

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

2. The petitioner has filed the instant writ application for the following relief/s:-

“(a) For grant of an appropriate writ to call for the records of Mutation Case No. 401 (6)C/2004-05 from the Circle Officer, Nath Nagar making an order for mutating the land in dispute in the name of the respondent no. 7 and to quash the same.



b) For grant of an appropriate writ to call for the records of Mutation Case No. 401 (6)C/2006-07 from the Circle Officer, Nath Nagar mutating the land in question under Jamabandi No. 509 and to quash the same.

c) For grant of an appropriate writ to call for the letter no. (Case No.) 253/2006-07 dated 8/2/2007/ the record of kabil lagan case no. 253/ 2006-07 fixing the rent of the land and to quash the same.

d) For grant of an appropriate writ to call for the letter no. 886 dated 2/5/2007 of the Additional Collector, Bhagalpur and to quash the same.

e) For grant of an appropriate writ for quashing the raiyati khata of holding nos. 66 and 508 as contained in annexure 3 and 4 to this writ petition.

f) For grant of an appropriate writ for quashing the order dated 28/10/2016 passed by Sri KP Ramaiah, Member, Administrative, the Bihar Land Tribunal, Patna passed in BLT Case No. 1278 of 2015 (Annexure 5).

g) For grant of an appropriate writ for a direction to the respondents to mutate the land in question in favour of all the sons and daughters of Late Singheshwar Sah and Late Urmila Devi after cancelling the order of mutation in favour of the respondent no. 7”

3. Learned counsel for the petitioner submits that the dispute pertains to land bearing Khesra No. 201(ka) measuring 0.0010 hectare and Khesra No. 201 (Kha), measuring 0.0240 hectare under Khata No. 66 situated in Ward No. 12, Muhalla- Champa



Nagar within Bhagalpur Municipality, PS- Nath Nagar, District- Bhagalpur. The same was in the name of Ishwar Sah, Son of Dhodhai Sah and he died on 02-09-2002, leaving behind his only daughter, Urmila Devi. Thereafter, Urmila Devi filed Mutation Case No. 225(6)C/2004-05 before the Circle Officer, Nath Nagar for mutating the aforementioned land in her name. Consequently, vide order dated 30-11-2004, passed in Mutation Case No. 225(6)C/2004-05, the Circle Officer ordered for mutating the aforesaid lands in the name of Urmila Devi and she started paying rent for the land to the State of Bihar.

4. It is next submitted that Urmila Devi was married with Singheswar Sah and they had one son, namely, Shiv Shankar Sah (respondent No.7) and six daughters, including the petitioner herein.

5. Learned counsel for the petitioner further submits that the only son of Urmila Devi, namely, Shiv Shankar Sah (respondent No.7) during the life time of his mother, surreptitiously got the aforesaid land mutated exclusively in his name, leaving aside his six sisters including the petitioner without giving any notice to Urmila Devi or her six daughters.

6. It is next submitted that on enquiry from the office of Circle Officer, it came to light that the land in question was



mutated in the name of the respondent No.7 by the order passed by the Circle Officer, Nath Nagar in Mutation Case No. 401(6)C/2004-05 and mutation Case No. 401(6)C/2006-07 and on the basis of letter No. (Case No.) 253/2006-07 dated 08-02-2007 of the Deputy Collector, Land Reforms and the letter No. 886 dated 02-05-2007 of the Additional Collector, Bhagalpur and a new Jamabandi No. 508 was created in the name of the respondent No. 7.

7. Learned counsel for the petitioner submits that since the petitioner was not in possession of orders passed in Mutation Case No. 401(6)C/2004-05 and Mutation Case No. 401(6)C/2006-07 as also the copies of the letter No. (Case No.) 253 of 2006-07 of the DCLR and the letter No. 886 dated 02-05-2007, of the Additional Collector, Bhagalpur from the Circle Officer, Nath Nagar, he filed application for the same but the application of the petitioner for providing copies of the aforesaid documents were not accepted by the Circle Officer, Nath Nagar and as a consequence of which, the petitioner could not take appropriate steps in the matter by filing appeal etc. against the order of mutation of the land in question.

8. However, petitioner filed BLT Case No. 1278 of 2015 before the Bihar Land Tribunal (BLT) to call for the records of



Mutation Case No. 401(6)C/2004-05, Mutation Case No. 401(6)C/2006-07 from the Circle Officer, Nath Nagar, the letter No. (Case No.) 253/2006/07 dated 08-02-2007, the records of kabil lagan case No. 253/2006-07 fixing the rent of the land and the letter No. 866 dated 02-05-2007 of the Additional Collector, Bhagalpur and to set aside the different orders as also for a direction to the respondents to mutate the land in question.

9. Thereafter, vide order dated 28-10-2016, passed in BLT Case No. 1278 of 2015, copy of which is enclosed at Annexure-5 to this writ petition, the Member Administrative, BLT, dismissed the BLT Case as not maintainable on the ground that it was not filed against the final order.

10. Learned counsel for the petitioner in the aforesaid background submits that the impugned orders of mutation passed in favour of the respondent No.7 have been passed behind the back of the petitioner surreptitiously without giving any notice to the petitioner and the petitioner has not been provided with copies of the different orders; mutating the land in question in favour of the respondent No.7. Learned counsel for the petitioner lastly submits that he will file an application before the Circle Officer, Nath Nagar, Bhagalpur (respondent No.6) and prays that the same may be disposed of within a time



frame by the Circle Officer, Nath Nagar, Bhagalpur (respondent No.6).

11. Per contra, learned counsel for the State submits that there is provision under the law for filing appeal and revision under the Bihar Land Mutation Act, 2011. Similarly, anybody aggrieved of the rent fixation order of the LRDC can file appeal but the petitioner ignoring and without exhausting all other alternative remedies, has invoked the extraordinary jurisdiction of this Court as well as the Court of Bihar Land Tribunal. However, in view of the limited prayer made by learned counsel for the petitioner for disposal of his application within a time frame, learned counsel for the State does not object to it.

12. Having regard to the rival submissions made on behalf of the parties, this Court is of the opinion that the petitioner shall approach the Circle Officer, Nath Nagar, Bhagalpur (respondent No.6) for mutation of land by filing application afresh along with a copy of this order within a period of three weeks.

13. If such an application is filed by the petitioner, then the Circle Officer, Nath Nagar, Bhagalpur (respondent No.6) shall be under legal obligation to consider the same and dispose it of by passing a reasoned and speaking order in accordance with law after affording opportunity of hearing to the parties



concerned, within a period of eight weeks from the date of filing of application.

14. With the aforesaid direction, the writ petition stands disposed of.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-07-2024
Transmission Date	N/A

