

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15228 of 2016

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Sri Sri 108 Bhagwati Asthan through Puran Mandal (Sevachh), Son of Yadu Mandal R/o vill. - Mohanpur, P.S. Goradiah, District Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Bhagalpur
3. The District Magistrate, Bhagalpur
4. The Circle officer, Goradih Block, Bhagalpur
5. The Registrar Bhagalpur District Bhagalpur
6. Ganesh Chaudhary Son of Dallu Chaudhary Resident of village - Mohanpur, P.S. Goradih, District Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Adv.
For the Respondent/s : Mr. Sajid Salim Khan- SC25

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 11-07-2024

Heard learned counsel for the parties.

2. In this writ application, the petitioner has prayed
for following relief:-

“(i) For direction to the respondents to make mutation in the favour of the petitioner bearing thana no. 476, Khata no. 115, Khesra No. 575, Rakba 0.52 decimal and Khesra no. 743, Rakba 0.87 decimal.

(ii) For direction to cancel the mutation of Respondent no.6 and thereafter mutate the above mentioned land in favour of the petitioner.”

3. The brief fact of the case is that initially Mostt.



Telasiya Devi was in possession of Khatiyani Ancestral property bearing Khata no. 115, Khesra no.575, Rakba 0.52 decimal and Khesra no. 743, Rakba 0.87 decimal and the aforesaid ancestral property of Mostt. Telasiya Devi was registered to the Shivdhari Chaudhary by way of Sale Deed No. 14085 dated 12.11.1970. Thereafter, Mostt. Telasiya Devi got knowledge that the private respondent no.6, by making forgery, registered the aforesaid land in his favour whereafter Mostt. Telasiya Devi filed a criminal case against the respondent no.6 bearing Complaint Case No. 359 of 1970. Most. Telasiya Devi also filed an application before the Registrar, Bhagalpur for cancellation of the Registry and the same was cancelled vide sale deed no. 13832 dated 26.12.1970. Thereafter, Shivdhari Chaudhary executed a sale deed of the land bearing Khata No. 115, Khesra No. 575, Rakba 0.52 decimal and Khesra No. 743 Rakba 0.87 decimal in favour of the petitioner vide registered sale deed no. 10737 dated 21.09.1998 on which the petitioner made a temple. Thereafter, the petitioner filed an application before the Circle Officer, Goradih for mutation of the aforesaid land and a report was called for stating therein that earlier mutation was in favour of Mostt. Telasiya Devi and by Mutation Case No. 1-96/97, the mutation was made in favour of the respondent no.6 but, Mostt.



Telasiya Devi cancelled the sale deed of the respondent no.6 by cancellation of sale deed no. 13832 and the entire record was sent by the Circile Officer to the D.C.L.R., Bhagalpur for further proceeding. The D.C.L.R., Bhagalpur vide letter dated 9751 dated 13.05.2014 stated that he has no power to cancel the mutation and sent the matter to the Additional Collector, Bhagalpur. The Additional Collector called for a report from the Registrar, Bhagalpur regarding affirmation of the cancellation of the sale deed no. 13832 dated 26.12.1970 and the Registrar, Bhagalpur clearly stated in its report that Mostt. Telasiya Devi executed a cancellation of sale deed by cancellation sale deed no. 13832 regarding Khata No. 115, Khesra No. 743, Rakba 0.52 decimal, Khesra No. 743, Rakba 2.37 decimal.

4. Learned counsel for the petitioner thus submits that the entire record shows that the mutation of the respondent no.6 is illegal and prays for cancellation of his mutation. He further submits that in spite of having knowledge that the mutation of the respondent no.6 is incorrect/illegal but, even then, the respondent authorities did not cancel the mutation of the respondent no.6.

5. A counter affidavit has been filed on behalf of the respondent nos. 3, 4 & 5 wherein in para-11, it has been stated



that after perusing the relevant papers, the Additional Collector, Bhagalpur vide order dated 11.11.2018 passed in Jamabandi (Cancellation) Case No. 99 of 2014-15 pleased to cancel the Jamabandi created in the name of Ganesh Choudhary and directed the party representing Sri Sri 108 Bhagwati Asthan on 21.09.1998 to get the mutation done according to law and also to get receipt.

6. Learned counsel for the State further states that there is an alternative remedy available before the petitioner by way of filing a petition before the Circle Officer, Goradih Block, Bhagalpur.

7. Having heard learned counsel for the parties, this Court feels it expedient in the ends of justice to direct the petitioner to file a fresh petition for mutation before the respondent no.4 / the Circle Officer, Goradih Block, Bhagalpur along with a copy of this order within a period of six weeks from today with a further direction to the respondent no.4 to dispose the petition of the petitioner in accordance with law after considering the entire materials on record as also after giving a reasonable opportunity of hearing to the parties concerned within a period of three months from the date of filing of the petition by the petitioner.



8. With the aforementioned observation and direction, this writ petition stands disposed of.

(Rudra Prakash Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2024
Transmission Date	

