

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8706 of 2021

Diwan Najeer Khan @ Najir Khan son of Hazi Riyazuddin Khan Resident of Village- Naughara (Ward No. 3), P.O. and P.S. Chainpur, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Revenue and Land Reforms, Bihar, Patna.
2. The Additional District Magistrate, Kaimur at Bhabua.
3. The Deputy Collector Land Reforms, Bhabua, District- Kaimur at Bhabua.
4. The Circle Officer, Chainpur, District- Kaimur at Bhabua.
5. Brij Nandan Singh Son of Late Purushottam Singh Resident of Village- Chainpur, P.O. and P.S.- Chainpur, District- Kaimur at Bhabua.
6. Brij Kishore Singh Son of Late Tulsi Singh Resident of Village- Chainpur, P.O. and P.S.- Chainpur, District- Kaimur at Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Adv.
For the Respondent/s : Mr. Sajid Salim Khan SC 25

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 29-01-2024 Heard learned counsel for the petitioner and the State.

2. This writ petition has been filed for quashing order dated 24.12.2019, passed by the Member (Administrative), Bihar Land Tribunal in BLT Case No. 76 of 2019 whereby he has affirmed order dated 05.12.2017, passed by the Additional District Magistrate, Kaimur in Mutation Revision No. 46 of 2015-16 by which, order dated 26.11.2014, passed by the D.C.L.R., Bhabua in Mutation Appeal No. 46 of 2011-12 and order dated 30.11.2011 passed by the Circle Officer, Chainpur in Mutation Case No. 1099 of 2011-12, have been set aside.



3. It is submitted by learned counsel for the petitioner that the impugned order is illegal in view of the fact that section 6(12) of the Bihar Mutation Act, 2011 came in existence from 22.12.2011, whereas the present Mutation Case No. 1099 of 2011-12 was filed on 22.10.2011. Therefore, old mutation Act will be applicable in the present matter. Hence, order passed by the BLT on the basis of section 6(12) of the Act is contrary to law and is fit to be quashed.

4. Learned State counsel submits that there is no illegality or irregularity in order dated 24.12.2019, passed by the Member (Administrative), Bihar Land Tribunal in BLT Case No. 76 of 2019 by which the Member (Administrative), BLT, has affirmed order dated 05.12.2017, passed by the Additional Collector, Kaimur (Bhabua). He submits that order dated 24.12.2019 has been passed by the Member (Administrative), Bihar Land Tribunal, keeping in view the fact that the land in question is subject matter of Title Suit No.150 of 2009 which is still pending in the Civil Court in which petitioner is party. Moreover, parties before the BLT and in the title suit, are common. Learned counsel also submits that the Additional Collector, Bhabua, has rightly observed in order dated 05.12.2017 that scope of correction of *Jamabandi* is subject to the decision of Title Suit No.150 of 2009, pending before the



competent Civil Court.

5. It is well settled that creation or cancellation of *jamabandi* neither creates nor extinguishes right and title of any person. Besides this, order of the BLT has rightly considered the fact that when the title suits are pending before the Civil Court, action of the Circle Officer, Chainpur and the DCLR, Bhabua allowing the mutation case in favour of the petitioner of that case, is illegal and unsustainable in the eye of law. Parties before the BLT as well as land in dispute are common in the title suits. Absence of section 6(12) of the Act will have no bearing in the present case. Admittedly, title suit is pending between the parties with regard to the same land where right, title and possession are to be adjudicated.

6. Taking into consideration the entire facts & circumstances of the case and rival contentions of the parties, this Court is of the opinion that the learned Tribunal (BLT) has committed no error in passing the impugned order. The findings recorded by the Tribunal (BLT) does not suffer from any fallacy.

7. The writ petition is accordingly dismissed.

(Prabhat Kumar Singh, J)

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