

Civil Writ Jurisdiction Case No.15200 of 2021

- Petitioner/s

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, East Champaran at Motihari, District East Champaran at Motihari.
4. The Additional Collector-cum-Additional District Magistrate, East Champaran at Motihari, District- East Champaran at Motihari.
5. The Deputy Collector Land Reforms, Chakiya, District- East Champaran at Motihari.
6. The Circle Officer, Keshariya, District- East Champaran at Motihari.
7. Raj Kumar Prasad Son of Late Vidya Sagar Prasad Resident of Village- Keshariya, P.O. and P.S. Keshariya, District- East Champaran at Motihari.
8. Arun Kumar Prasad Son of Late Vidya Sagar Prasad Resident of Village- Keshariya, P.O. and P.S. Keshariya, District- East Champaran at Motihari.

... .. Respondent/s

For the Petitioner/s	:	Mr. S.B.K. Manglam Mr. Awnish Kumar
For the State	:	Mr. Raj Kishore Roy (GP-18) Mr. Mukul Prasad- AC to GP-18
For Private Respondents	:	Mr. Anil Kumar Rai Mr. Abhishek

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2. The learned counsel for the petitioners submits that s purchased land pertaining to plot no.45, plot no.1113,



area 168.64 decimals at Mauza- Keshariya from Daya Sagar Prasad vide registered sale deed dated 03.02.2016 (Annexure-1). It is next submitted that after purchasing the land, petitioners filed Mutation Case No.985 of 2016 before the Circle Officer, Keshariya, the same was allowed by an order dated 19.08.2016 (Annexure-2). Accordingly, the correction slip was issued (Annexure-3) and new holding was created and rent receipts dated 31.08.2016 was issued (Annexure-4).

3. It is submitted that the respondent nos.7 and 8 filed Mutation Appeal No.16 of 2016-17 before the DCLR against the order dated 19.08.2016 in Mutation Case No.985 of 2016. The appeal was allowed by an order dated 24.03.2017 (Annexure-5) on the ground that Title Suit No.448 of 2015 was pending adjudication with regard to the land in question in the Court of the learned Subordinate Judge-12, Motihari. It is submitted that petitioners filed Mutation Revision Case No.56 of 2018-19 before the Additional Collector against the order dated 24.03.2017 passed by the DCLR in Mutation Appeal No.16 of 2016-17 in which notices were issued on respondent nos.7 and 8. The Additional Collector after hearing the parties allowed Mutation Revision Case No.56 of 2018-19 by an order dated 26.03.2021 (Annexure-6).



4. The learned counsel for the petitioners submits that the revision before the Additional Collector against the order in appeal passed by the DCLR was filed under Section 12 of the Bihar Land Land Mutation Rules, 2012. It is submitted that **Section 12 of the Bihar Land Land Mutation Rules, 2012** incorporates:-

“12. Revision.

(1) Any person aggrieved by the order of the Land Reforms Deputy Collector, may file an application for revision in the Court of Collector/ Additional Collector of the District concerned within thirty (30) days from the date of the order.

(2) The Collector/ Additional Collector concerned may condone the delay in filing of the application for revision provided he is satisfied that there are sufficient reasons for the delay.

(3) As soon as the application for revision is filed, the Collector/ Additional Collector shall call for the case-record from the Land Reforms Deputy Collector concerned. or the Circle Officer concerned in whose custody the case-record lies.

(4) The Collector/Additional Collector shall issue notice to all parties concerned with the case, directing them to appear either in person or through their authorized representatives on the date, time and place fixed for the hearing of the case.

(5) In case any of the parties does not appear even after a reasonable opportunity to appear and being heard has been given, the Collector/Additional Collector may dispose off the case ex-parte on the basis of the available records.

(6) The time limit for the disposal of the mutation revision application shall be of thirty (30) working days from the date of the filing of such application.



(7) After the disposal of the mutation revision application, the Collector/ Additional Collector shall return the case- record to the Circle Officer concerned for implementation of his order.

(8) On receipt of the Case-record, the Circle Officer shall issue correction slip in the manner as provided in rule-9.

(9) On receipt of the correction slip, the Karmachari shall alter the entries in the revenue records concerned in the manner as provided in rule-10.”

5. It is submitted that the respondent nos.7 and 8 filed an appeal being Mutation Appeal Case No.01 of 2021-22 before the Collector against the order dated 26.03.2021 passed by the Additional Collector in Mutation Revision Case No.56 of 2018-19. The appeal was filed before the Collector under Section 7 of the Bihar Land Land Mutation Act, 2011 read with Rule 14 of the Bihar Land Mutation Rules, 2012.

6. The Collector by his order dated 12.04.2021 (Annexure-8) passed an order to maintain status quo. The order was passed without noticing the petitioners on the ground that Title Suit No.448 of 2015 was pending adjudication in the Court of the learned Sub-Judge-12, Motihari when Title Suit No.448 of 2015 stood dismissed for default by an order dated 12.01.2021 (Annexure-9).

7. The order dated 12.04.2021 passed by the Collector in Appeal Case No.01 of 2021-22 is impugned in the instant writ application on the ground that against an order passed by the



Circle Officer in Mutation Case under Sections 6 and 7 of the Bihar Land Land Mutation Rules, 2012, an appeal is to be filed before the DCLR in terms of Section 11 of the 2012 Rules. Further, a revision against the order of DCLR passed under Rule-11 is maintainable before the Collector or Additional Collector under Rule 12 of the 2012 Rules. It is submitted that after an order is passed in revision either by Collector/ Additional Collector, neither the Acts and the Rules contemplates an appeal before the Collector. It is next submitted that Collector and Additional Collector have coordinate power in entertaining a revision application against an order passed in appeal. It is also submitted that from perusal of Rule-12 of the Bihar Land Land Mutation Rules, 2012, it would manifest that the power of revision can be exercised either by the Additional Collector or the Collector, but once the said power of revision is exercised no further appeal is provided under the Acts or the Rules to challenge the order in revision passed by the Additional Collector before the Collector of the District. It is next submitted that thus the Collector had no jurisdiction to entertain the appeal of respondent nos.7 and 8 under Section 7 of the Act read with Rule-14 of the 2012 Rules as Rule 14 of the 2012 Rules provides for an appeal before the Collector against an



order passed by the Additional Collector under Rule 13 of the 2012 Rules in *Jamabandi* Cancellation Case.

8. It is submitted that it appears that the Collector got confused and thus, exercised the power of appeal against an order of revision, as such, the order impugned in the instant writ application is bad.

9. The learned counsel appearing on behalf of the State and the private respondents fairly submit that the Collector did not had the power to entertain an appeal against the order of the Additional Collector passed in Revision under Section 12 of the Bihar Land Land Mutation Rules, 2012. The learned counsel appearing on behalf of the private respondents further submits that the private respondents ought to have moved before the B.L.T. challenging the order passed by the Additional Collector in revision.

10. After hearing the learned counsel for the parties, the Court prima facie concurs with the submissions made by the learned counsel appearing on behalf of the petitioners and as such, the order dated 12.04.2021 passed by the Collector in Mutation Appeal Case No.01 of 2021-22 whereby an order of status quo has been passed is hereby quashed on the ground that the order was *quorum non judice*.



11. However, the dismissal of the writ application shall not come in the way of the private respondents in seeking their remedies available in accordance with Law.

(Satyavrat Verma, J)

vikash/-

U			
---	--	--	--

