

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13443 of 2024

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Bhagwan Mishra Son of Late Devprasad Mishra Resident of Village -Chakiya
P.O. Chakiya, P.S.- Sikarhata District Bhojpur At Present Kirari Suleman
Nagar, Nithari North West Delhi 110086.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Bhojpur at Ara.
3. The Additional Collector, Bhojpur at Ara.
4. The Deputy Commissioner Land Reforms, Piro, District-Bhojpur.
5. The Circle Officer, Circle-Tarari, District-Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anjani Kumar Jha, Advocate Ms. Puja Kumari, Advocate
For the Respondent/s	:	Mr. Mrigendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 10-09-2024

Heard Mr. Anjani Kumar Jha, learned Advocate for the petitioner and Mr. Mrigendra Kumar, learned Advocate for the State.

2. The petitioner is aggrieved by the order dated 15.05.2024, passed in Mutation Case No. 1760 R27 / 2023-24 / Tarari (Annexure-P/7) by the respondent no. 5, whereby the application for mutation filed by the petitioner with respect to Mauja – Chakiya, Thana No. 203, Khata No. 07, Khesra Nos, 1285 (ad measuring 1.25 decimals), 1290 (ad measuring 1.5 decimals) and Khata No. 188, Khesra No. 1291 (ad measuring 1 decimal), has been rejected. The petitioner also seeks a direction to mutate the name of the petitioner in revenue records with



respect to the land, in question.

3. Learned Advocate for the petitioner advertig to the averments made in the writ petition contended that the petitioner had purchased the land, in question, through a Registered Sale Deed No. 1993 dated 06.06.2015, for a valid consideration. Having purchased the land, the petitioner got mutation as well as *jamabandi* in his favour. However, subsequent thereto, the petitioner came to know that the description of the land, in question, was incorrectly mentioned in the registered sale deed and thus, a rectification deed has been executed by the vendor in his favour vide Deed No. 3059 dated 23.07.2019.

4. In view of the subsequent development and after getting the rectification deed in his favour, the petitioner approached before the Circle Office, Tarari for correction in the mutation records vide Mutation Case No. 954R27/2019-20. However, the same came to be rejected vide order dated 03.03.2020. The petitioner having found no way out, approached before the learned DCLR, in Mutation Appeal No. 27 of 2019-20. The learned DCLR after perusing the record, set aside the order and remanded the matter back to the respondent no. 5, with a direction to pass reasoned and speaking order. The copy of the order of the learned DCLR has been placed on record by way of Annexure-P/4.



5. On being remanded to the respondent no. 5, the petitioner had been advised that since a *jamabandi* bearing Jamabandi No. 17 of 2005 has been created in favour of the petitioner, therefore, change in mutation record can only be done after cancellation of Jamabandi No. 17 of 2005. In view thereof, the petitioner filed a Jamabandi Cancellation Case No. 03 of 2022-23, seeking cancellation of earlier Jamabandi No. 17 of 2005, on account of wrong description in the earlier sale deed and subsequent rectification in it.

6. Having taken note of the submission, the *jamabandi* stood cancelled by the respondent no. 3 vide order dated 16.09.2023. After getting the order of learned Collector, the petitioner again approached before the Circle Officer, Tarari but this time, he rejected the claim of the petitioner for mutation vide order dated 15.05.2024, only on *non est* ground that since there is no direction of the District Magistrate while cancelling the *jamabandi*, mutation cannot be done.

7. Learned Advocate for the State contended that the petitioner has statutory remedy of appeal before the learned DCLR, and the entire facts can be placed on record before him.

8. Having considered the rival contention of the learned Advocate for the parties and taking note of the facts, as discussed hereinabove, this Court finds substance in the



submission of learned Advocate for the petitioner that once on account of certain error in description of a land, a rectification deed has been duly executed in favour of the petitioner by the vendor and when this fact has been brought before the learned Collector, Bhojpur at Ara, the earlier *jamabandi* running in favour of the petitioner also stood cancelled; the Circle Officer, Tarari is under obligation to consider the rectification deed and pass necessary order for mutation of the land, after asking a report from the *Rajasva Karamchari*, in accordance with law.

9. At this juncture, learned Advocate for the petitioner submits that the report of *Rajasva Karamchari* is also in favour of the petitioner.

10. In view thereof, the impugned order dated 15.05.2024 stands set aside. The matter is relegated to the respondent no. 5, to consider the claim of the petitioner, in view of the rectification deed and pass appropriate order, preferably within a period of twelve weeks, from the date of receipt/production of a copy of this order.

11. The writ petition stands allowed.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2024
Transmission Date	NA

