

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1664 of 2019

In

Civil Writ Jurisdiction Case No.22287 of 2019

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1. S. M. Arshad Ali Son of Late S.M. Shaukat Ali resident of Murarpur, Police Station Kotwali, Town Gaya, District Gaya, presently residing at P and T Colony, Police Station Kotwali, Town Gaya, District Gaya.
 2. Md. Aslam Ali Son of Late S.M. Shaukat Ali resident of Murarpur, Police Station Kotwali, Town Gaya, District Gaya, presently residing at P and T Colony, Police Station Kotwali, Town Gaya, District Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Revenue, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Deputy Collector, Land Reforms, Gaya.
4. The Anchal Adhikari, Fatehpur, Gaya.
5. Mahendra Bhuiyan Son of Late Prabhu Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
6. Banwari Bhuiyan Son of Kishun Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
7. Karu Bhuiyan Son of Itwari Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
8. Parsadi Bhuiyan Son of Daso Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
9. Baleshwar Bhuiyan Son of Govind Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
10. Rambali Bhuiyan Son of Kishun Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
11. Kuleshwar Bhuiyan Son of Bishun Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.
12. Kailash Bhuiyan Son of Puna Bhuiyan Resident of Manpur, Anchal Fatehpur, Post Office Fatehpur, Police Station Fatehpur, District Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kishore Kumar Thakur, Advocate
Mr. Braj Kishore Singh, Advocate
For the Respondent/s : Mr. Md.Khurshid Alam, AAG-12

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 01-02-2024 The appellant is aggrieved by the order passed in the writ petition filed by him. The writ petition was filed seeking a direction to the Circle Officer to mutate the name of the petitioner's with regard to the land in question.

2. The appellant claims that his brother, one S.M. Hashmat Ali, filed Title Suit No. 284 of 1992 for declaration of title before the Munsif II, Gaya, which was decreed. The plaintiff, the brother of the appellant then gifted the property to the appellant. It is based on the above gift by the alleged title holder that the appellant seeks mutation. Despite repeated requests before the Circle Officer and the Deputy Collector Land Reforms nothing has been done was the contention taken.

3. The learned Single Judge noticed the admission of the appellant itself that due to inadvertence, the record of rights of the land was prepared in the name of the State of Bihar. It was noticed that there was no order obtained from the Munsiff's court for correcting the record of rights so as to enable mutation and the writ petition stood dismissed.

4. The learned counsel for the appellant submits that in fact, based on the record of rights, the land has also been allotted to others, in which event, necessarily, a mutation has to



be carried out.

5 If third party rights are created, again, the petitioner cannot demand summary correction of mutation; without hearing the third parties. The appellant has to seek appropriate remedies based on the decree in the title suit, and it is not proper for this Court to invoke the jurisdiction under Article 226 of the Constitution of India. It is also noticed from the counter affidavit that Title Appeal No. 26 of 2020 has been preferred before the District Judge, Gaya, in which context the appellants will have to first agitate their cause there and then seek appropriate remedies.

6. The writ petition stands dismissed, leaving open all contentions on merit.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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