

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3301 of 2017

Arbind Kumar Poddar Son of Shri Krishnadeo Poddar resident of village -
Sujapur, Police Station - Brari, District - Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Member, Executive of the Bihar Land Tribunal through the Registrar of the Bihar Land Tribunal,
3. The Collector, Katihar.
4. The Additional Collector, Katihar.
5. The Deputy Collector, Land Reforms, at Katihar.
6. The Anchal Adhikari, at Barari within the district of Katihar.
7. Most. Manorama Devi widow of Late Gulai Mandal
8. Most. Phollan Devi widow of Late Sudin Mandal
9. Shri Abhishek Kumar Mandal minor Son of Late Sudin Mandal represented through his mother and natural guardian Most. Phoolan Dev

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Adv.
For the Respondent/s : Mr. S.C.Yadav-Gp15

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 17-06-2025 Heard Mr. Devendra Kumar Sinha, learned Senior

Counsel for the petitioner and the State.

2. The present writ petition has been preferred for the
following relief(s):

*(i) for quashing the order dated
the 29th day of July 2015 at Annexure 9
passed by the Member, Executive of the
Bihar Land Tribunal, Patna in B.L.T. Case
No 660 of 2014 by which on the basis of the
application filed on behalf of the respondent*



No-7, the order dated 19.10.2012 passed by the Additional Collector, Katihar in Mutation Revision Case No-37 of 2012 allowing mutation of the name of the petitioner was set aside;

(ii) for issuance of a direction to the respondent No-7 not to dispossess the petitioner from the land in question by show of force during the pendency of this application.

(iii) for any other relief or reliefs as deemed fit and proper in the interest of Justice.

3. Earlier, the matter was taken up on 22.04.2025 and the same was adjourned only because Mr. Bhola Prasad who is representing the respondent no. 7 to 9 was absent.

4. This Court had taken note of the fact that the matter is of the year 2017 and the respondent nos. 7 to 9 have not even bothered to file any reply despite the fact that on 26.09.2024, the Co-ordinate Bench had directed them to file reply.

5. Today, on call, learned counsel for respondent nos. 7 to 9, Mr. Bhola Prasad is again missing.

6. Learned Senior Counsel for the petitioner has taken this Court to the paragraph 7 onwards of the order in question dated 29.07.2015 passed by the Bihar Land Tribunal, Patna (henceforth for short, 'the Tribunal') in **BLT Case No. 660 of**



2014 (Most. Manorma Devi Vs. the State of Bihar and Ors.).

7. Paragraph Nos. 7 to 12 read as follows:

7. It is submitted by the opposite parties that the petitioner is not entitled to the reliefs prayed in the main application and the points formulated, therefore are not tenable rather are contrary to the facts apparent from the orders. The petitioner has also concealed some important facts and documents and has given distorted version of the developments. Admittedly the lands of plot no. 47 and 49 belonged to Gulai Mandal and his brother and on partition, portion of the afore mentioned two plots fell in the share of Gulai Mandal, who was the husband of the petitioner. The two sons of Gulai Mandal namely Pappu Mandal and Sudin Mandal were living separately Sudin Mandal also died leaving behind his widow Phoolan Devi the opposite party no. 7. The afore named Gulai Mandal, in his old age fell in need of money and he offered the land to his separated son namely Pappu Mandal and Phoolan Devi for purchase. Price was fixed at Rs. 76,000/-. Since the Gulai Mandal wanted to sell near his residential house, therefore, he wanted that Pappu Mandal and the widow of his another separated son should purchase altogether 15



decimals portion out of the two plots i.e. 14 ½ decimals portion of plot no. 47 ½ decimal portion of plot no. 49.

8. The Pappu Mandal and the widow Phoolan Devi agreed to purchase. A registered deed of sale executed on 3.11.2006, which was presented for admission of execution and registration on the next day i.e. on 4.11.2006. A total of 15 decimals area consisting of the two bearing no. 47 and 49 (Plot no. 48 measuring 0.14 ½ decimal and plot no. 49 measuring 0 ½ decimals) were transferred on receipt of payment of the entire consideration amount. On receipt of the consideration amount and on execution of the sale deed possession of the lands under the sale deed was handed over to the vendees. The widow Phoolan Devi purchased the land in the name of her minor son Abhishek Kumar Mandal. The vendor Gulai Mandal, in the aforementioned facts and circumstances, himself mentioned in the sale deed that the minor son Abhishek Kumar mandal is represented through his mother namely Most. Phoolan Devi as mother and natural guardian of her minor son Abhishek Kumar Mandal.

9. The aforementioned facts with regard to the sale and delivery of possession has been wilfully concealed by the petitioner



in her main petition. The name of the purchasers from Gulai Mandal were mutated after enquiry and rent from them was accepted regularly with grant of receipts. Subsequently there took place an amicable oral partition between the two purchasers i.e. Pappu Mandal and Most Phoolan Devi representing her minor son Abhishek Kumar mandal. Phoolan Devi got half measuring 7½ decimals in her share out of plot no. 47 which is the land in question and with respect to which she came in physical possession. For better education and maintenance and also for the benefit, welfare and better future prospect of her minor son namely Abhishek Kumar Mandal, the opposite party no.7 in the capacity of mother and natural guardian of her minor son, transferred the land in question to the opposite party no.6 for valuable consideration through a registered deed of sale which was executed on 21.8.2008 and registered on 1.9.2008 and on receipt of the entire amount of consideration she put the opposite party no.6 in possession of the same.

10. At the instance of some interested persons, the original vendor raiyat named Gulai Mandal initially filed a Criminal complaint in the court of the Chief



Judicial Magistrate at Katihar against Phoolan Devi and others on the basis of which case no. -CA-2811 of 2008 was registered. Later the case was transferred to the court of Shri P.K. Ratan, J.K. 1 Class at Katihar, who on evidence, was dismissed the case by his order dated 3.11.2010. Thereafter, a Title Suit no. 19 of 2010 was filed on behalf of the afore named Gulai Mandal seeking relief of setting aside the second sale deed dated 21.8.2008/ 1.9.2008. The transfer originally made by him through sale deed dated 3.11.2006/ 4.11.2006 was not under challenge. Thereby he was not entitled to any relief. The said Title Suit was also dismissed finally by order dated 03.04.2013. having lost the case and the Title Suit at the instance of the interested villagers namely Jago Sah and Sarwan Sah, an attempt was made to dispossess the opposite party no.6 from the land in question by show of force. There arose an apprehension of the breach of the peace and the Police on enquiry found the possession of the opposite party no.6 and that at the instance of those interested persons and with their help a construction is attempted on the land by Gulai Mandal, who had earlier in 2006 itself sold the land. the Police accordingly submitted report dated



28.10.2013 for initiation of a proceeding Under Section 107 Cr. P.C. Against the order passed in the Revision Writ Case bearing C.W.J.C No. 1669 of 2014 on 21.6.2013 was filed on 21.6.2013. the fact that the Title Suit No. 19 of 2010 stood dismissed on 3.4.2013 was concealed fraudulently from the Hon'ble High Court. The writ case was dismissed by order dated 30.6.2014.

11. It is submitted and pointed out that in the related Mutation Case No. 66 of 2008-09, which was filed on behalf of the opposite party no.6, from the order sheet it is apparent that reports were called for from the Halka Karamchari through the Circle Inspector. Both of them on enquiry, recommended for mutation of the name of the opposite party no. 6. The Pervious Mutation Case, which was on the basis of the transfer made by Gulai Mandal, was never challenged. Possession of the 1st purcahsre Phoolan Devi was also never challenged. In course of hearing of the related revision case the present petitioner admitted that she has no objection against the subsequent second transfer. Possession of the present opposite party no.6 (who was the petitioner in the revision case) was also admitted. In this view of the matter there is anything to be challenge the impugned order



and the present case deserves to be dismissed summarily. The present petitioner has taken the plea that the impugned Revisional order has been passed without hearing her. This is absolutely incorrect and contrary to facts. the next point raised relates to filing of Title Suit no. 19 of 2010 for getting the second sale deed by which the land in question was transferred to the present opposite party no.6 set aside pointed out that the said Title Suit has already been dismissed on 3.4.2013.

12. The transferor in whose name jamabandi was running, has already been impleaded as party which is also apparent from the report and the documents. Therefore there is no question of non joinder of party. For the purpose of Mutation the factum of legal and valid possession is decisive and the question of Title is only supportive. There is no defect in title. The Title Suit having been dismissed, it cannot be said that the vendor, who is admittedly the mother and natural guardian, had no authority to transfer the land in question for the benefit and welfare and also for the better future prospect of her minor son. Possession of the present opposite party no.6 stands admitted. The statements made in the different paragraphs of the main application



thus stands replied. The case is thus fit to be dismissed.

8. Learned Senior Counsel submits that suddenly, ‘the Tribunal’ changes track and later, while taking note of the fact that this matter has to be decided by the Competent Court, the setting aside of the mutation appeal of the DCLR was upheld and the appeal was allowed.

9. As recorded above, respondent nos. 7 to 9 chose not to appear/contest or file any affidavit despite their appearance through Mr. Bhola Prasad.

10. This Court has gone through the paragraph nos. 7 to 12 of the order of ‘the Tribunal’ which clearly shows that Gulai Mandal who was the husband of Manorma Devi, after the death of his other son, Sudin Mandal, wanted to alienate some part of his land and the other son, Pappu Mandal and Phoolan Devi came forward and decided to purchase it. The entire consideration amount was handed over and accordingly, they came in possession.

11. The petitioner has purchased the land from the widow, Phoolan Devi (the other son, Pappu Mandal also died). The further paragraph shows that Gulai Mandal, the original vendor later tried to put spoke in the wheels and preferred **Title Suit No. 19 of 2010** which came to be dismissed on **03.04.2013**.



He also tried to take the criminal route but failed in the said effort. The Police initiated proceeding under Section 107 of the Cr.P.C. to maintain peace.

12. This Court is of the opinion that when the Court came to the conclusion that such matters can only be decided by the Competent Civil Court, it had no occasion to move further and record that the appeal allowed by the DCLR is justified when its own paragraphs 7 to 12 narrates a very different story.

13. The order dated 29.07.2015 passed by 'the Tribunal' in BLT Case No. 660 of 2014 stands set aside. The matter is remanded back to 'the Tribunal' to decide it afresh after hearing all the necessary parties.

14. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

Vijay Singh/-

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