

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4045 of 2024

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Amit Kumar Jha Son of Late Guna Kant Jha, at present resides at 383, Ground Floor, Sushant Lok 2, Sector - 57, Gurgaon (Haryana) and Permanent Resident of Village- Matrahri (Ranipur), P.O. - Basaitha, P.S. - Benipatti, District - Madhubani (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, State of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, State of Bihar, Patna.
3. The Principal Secretary, the Department of General Administration, State of Bihar, Patna.
4. The District Magistrate, District - Madhubani, Bihar.
5. The Deputy Collector Land Reforms, Benipatti, District Madhubani, Bihar.
6. Smt. Pallavi Kumar Gupta, the Circle Officer, Benipatti, District Madhubani, Bihar.
7. Dhruv Kumar Mandal, Circle Inspector, Benipatti Circle, District Madhubani, Bihar.
8. Dev Deep, Halka Karmchari, Benipatti Circle, District Madhubani, Bihar.
9. Sukhchandra Mishra, S/o Late - Amiri Mishra, Resident of Village - Matrahari (Ranipur), P.O. - Basaitha, P.S. - Benipatti, District - Madhubani, (Bihar).
10. The Circle Officer, Bennipatti, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tuhin Shankar, Adv Mr.Siddharth Shankar Pandey
For the Respondent/s	:	AC to GP-12 Mr. Abhishek Anand

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 505-05-2025
1.

Heard learned counsel for the petitioner, Shri Tuhin Shankar, learned AC to GP-12 and the learned counsel appearing on behalf of the respondent No .9.
2.

The learned counsel appearing on behalf of the



petitioner submits that the land in dispute pertains to Khata No. 107 (old)/Khata No. 369 (new), Khesra No. 460 (old)/Khesra No. 888(new), Thana No.-133, Tauzi-2318, at Mauza-Benipatti, District-Madhubani.

3. Learned counsel for the petitioner next submits that the dispute in the present case with respect to aforesaid khata relates to an area of land measuring 2 Katha 18 dhur, purchased by two separate registered sale deeds by petitioners both dated 2-11-2022. It is further submitted that vide Sale Deed No. 7914 dated 2-11-2022, the petitioner had purchased 1 katha 7 dhur of land of the aforesaid khata and from the Sale Deed No. 7915 dated 2-11-2022 an area of 1 katha 11 dhur was purchased.

4. Learned counsel for the petitioner submits that the land in dispute originally belonged to the ex-landlord Babu Ambika Singh and the ex-landlord had settled the aforesaid piece of land with Asharfi Mishra, uncle of Sukhchandra Mishra, from whom the petitioner, by the aforesaid two sale deeds, purchased the land in dispute. It is next submitted that Asharfi Mishra by a gift deed dated 6-3-1968 gifted the land in dispute to Sukhchandra Mishra, his nephew, and Sukhchandra Mishra thereafter got Jamabandi No. 131 created with respect to



the land in dispute and is paying the rent all throughout since the creation of the Jamabandi to the State of Bihar.

5. The learned counsel for the petitioner submits that said Sukhchandra Mishra by the aforesaid two sale deeds sold the land in dispute in favour of the petitioner as recorded hereinabove. It is next submitted that the petitioner after purchasing the land in dispute filed Mutation Case No. 4649 of 2022-2023 and Mutation Case No. 4650 of 2022-2023 for getting the land mutated in his name, but then both the mutation applications came to be dismissed by separate order both dated 28-2-2023 passed by the Circle Officer, Benipatti.

6. The learned counsel for the petitioner next submits that the petitioner filed Mutation Appeal No. 95 of 2023-2024 against the order dated 28-2-2023 in Mutation Case No. 4650 of 2022-2023 passed by the Circle Officer before the DCLR.

7. At this stage, the learned State counsel points out that on behalf of the petitioner, two mutation cases were filed, but then it appears that petitioner filed Mutation Appeal Case No. 95 of 2023-2024 only against the order passed in Mutation Case No. 4650 of 2022-2023, and as such no appeal was filed against the order passed in Mutation Case No. 4649 of 2022-2023, hence it is submitted that the order passed by the Circle



Officer in mutation case No. 4649 of 2022-2023, in absence of challenge, attained finality.

8. The learned counsel appearing on behalf of the petitioner is not able to rebut the submission of the learned counsel appearing on behalf of the State, but then submits that the DCLR in Mutation Appeal No. 95 of 2023-2024 filed against the order dated 28-2-2023 in mutation case No. 4650 of 2022-2023 set aside the order passed by the Circle Officer by an order dated 14-9-2023 (Annexure-9 to the writ application) wherein it was recorded that the Circle Officer rejected the Mutation Case No. 4650 of 2022-2023 based on the report of the Karamchari, who had reported that the land in dispute is of *Gar Majarua Aam Khas Khata*, but then the Circle Officer did not appreciate the fact that the land in dispute was recorded in the name of Sukhchandra Mishra and the type of the land was recorded as "bheeth" (भीठ), as would manifest from the continuous khatian, as such the DCLR set aside the order and remanded the case back to the Circle Officer Benipatti for deciding the case afresh in accordance with law and also directed the petitioner to file online application afresh.

9. The learned counsel appearing on behalf of the petitioner next submits that in compliance of the order dated 14-



9-2023 passed by the DCLR in Mutation Appeal Case No. 95 of 2023-2024, petitioner filed Mutation Case No. 2885 of 2023-24 and Mutation Case No. 2887 of 2023-2024 online.

10. At this stage the learned counsel appearing on behalf of the State submits that it absolutely does not stand to reason that on what basis the petitioner filed two mutation cases afresh online, when the petitioner had only challenged the order rejecting the mutation of the petitioner in Mutation Case No. 4650 of 2022-2023, on which the learned counsel appearing on behalf of the petitioner submits that since the DCLR in his order dated 14-9-2023 had recorded that both the sale deeds and continuous khatiyani show that the land in dispute was rayati land recorded in the name of Sukhchandra Mishra, as such two mutation cases were filed but then it is submitted that both the mutation cases were again rejected by the Circle Officer, Benipatti, by an order dated 10-1-2024 and 16-1-2024 respectively, which is impugned in the instant writ application.

11. At this stage, learned counsel appearing on behalf of the State submits that in the instant writ application only order dated 10-1-2024 passed by the Circle Officer in Mutation Case No. 2887 of 2023-24 has been assailed, on which the learned counsel appearing on behalf of the petitioner submits



that IA No. 1 of 2025 has been filed assailing the order dated 16-1-2024 in Mutation Case No. 2885 of 2023-24, but then it is submitted that inadvertently in the I.A. No. 1 of 2025, the order dated 16-1-2024 has been recorded as 10-1-2024 and thus seeks permission to make rectification in the pleadings made in the I.A. No. 1 of 2025.

12. Permission is accorded.

13. I.A. No. 1 of 2025 is allowed for consideration.

14. Learned counsel appearing on behalf of the petitioner next submits that though petitioner had submitted all the relevant documents including the continuous khatian, but then the Circle Officer, without appreciating the facts of the case in its correct perspective, again rejected both the mutation applications filed by the petitioner online this time recording that the land in dispute is *Gar Majarua Malik Land*, when on the earlier occasion the mutation application was rejected on the ground that the land in dispute is *Gar Majarua Aam Khas Khata*, which amply demonstrates the dichotomy in the order passed by the Circle Officer in both the mutation cases.

15. It is further submitted that DCLR had directed the Circle Officer to consider and pass orders in accordance with law, but then the Circle Officer in mechanical manner without



giving any opportunity of hearing to the petitioner, passed the order impugned in the instant writ application behind the back of the petitioner.

16. Learned counsel appearing on behalf of the Respondent No. 9 submits that a counter-affidavit has been filed on behalf of the Respondent No. 9 also wherein the Respondent No. 9 has supported the case of the petitioner. It is next submitted that in name of the Respondent No. 9, after the land in dispute was gifted to him by his uncle, Asharfi Mishra, Jamabandi No. 131 was created way back in the year 1969-70 and Respondent No. 9 since then is coming in possession of the land in dispute and was paying the rent till he sold to the petitioner. It is also submitted that State never objected to the creation of Jamabandi No. 131 nor the State ever refused to accept rent of the land in dispute from Sukhchandra Mishra.

17. Learned counsel appearing on behalf of the State submits that mutation application has been rejected against which the petitioner has remedy of filing an appeal before the DCLR. It is further submitted that since the mutation applications were filed online, as such it cannot be said that petitioner was not aware of the date when the mutation applications were to be taken as the date is also given online



and it was for the petitioner to check the date given. It is also submitted that the mutation application was rejected online without considering the documents which were submitted by the petitioner before the Circle Officer. It is next submitted that if the petitioner is aggrieved by the fact that the Circle Officer, without appreciating the documents submitted by him in correct perspective, has rejected the mutation applications, in that event, the petitioner has remedy of filing appeal before the DCLR and thereafter also statutory remedies are available to the petitioner upto the BLT, but then the petitioner has rushed to this Court by filing the instant writ application.

18. The Court is in complete agreement with the submission made by the learned counsel appearing on behalf of the State and thus disposes of the writ application with liberty to the petitioner to file appeal before the DCLR against the order impugned in the instant writ application on or before 27-5-2025. In the event, if any appeal is filed by the petitioner on or before 27-5-2025, in that event the DCLR shall consider and dispose of the same within a period of three months thereafter, after giving proper opportunity of hearing to the petitioner and all the concerned.

19. It is made clear that if any issue of limitation



arises, the authority competent shall keep in mind that petitioner was pursuing his remedy before this Court.

(Satyavrat Verma, J)

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