

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख व साथ														
28-09-2018	<p style="text-align: center;"><u>In The Court Of: Land Reforms Deputy Collector, Arwal.</u> Mutation Appeal Case No – 01/2018-2019 Mangal Prasad & others–Appellant Vrs Aman Thakur & others- Defendent. Present- Rakesh Kumar, DCLR <u>Learned Advocate of appellant.</u> 1. Sri. Saroj Kumar Jha. <u>Learned Advocate of Defendent.</u> 1. Sri. Gauri Shanker Mishra.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p style="text-align: center;">Schedule-01</p> <table border="1" data-bbox="379 954 1353 1151"> <thead> <tr> <th>Khata</th> <th>Plot No</th> <th>Rakwa A-D</th> <th>Boundary.</th> </tr> </thead> <tbody> <tr> <td rowspan="2">287</td> <td>690</td> <td>0-12</td> <td rowspan="2">-----</td> </tr> <tr> <td>691</td> <td>0-46</td> </tr> <tr> <td></td> <td>Total</td> <td>0-58</td> <td></td> </tr> </tbody> </table> <p style="text-align: center;">Mauza-Pipra Bangla, PS+Anchal+ Dist-Arwal.</p> <p>The learned advocate of appellant submitted that land mentioned in schedule is purchased land of appellant and has peaceful possession over disputed land. Further, after demand was created in their name they have been paying rent to govt. However, when appellant tried to renew the rent receipt then they namely Mangal Prasad F/O Late Ram Chandra Prasad & Soni Devi W/O Late Ram Chandra Prasad were informed that disputed land has been mutated in favour of defendants. Learned advocate alleged that defendants vendor are other than original demand</p>	Khata	Plot No	Rakwa A-D	Boundary.	287	690	0-12	-----	691	0-46		Total	0-58		
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(Signature)

holder and informed that appellants has filed Title Appeal No-62/15 Ramchandra Sao & others vrs Bhagwan Das in honourable court of district Judge, Jehanabad against the order of lower court in case No-41/2011. Learned advocate further alleged that order passed in mutation case No-1391/15-16 dated 11th Feb 2016 in favour of defendants are based on flimsy ground as karamchari has reported about plot No-961 instead of 691. Further, these appellant didn't receive any notice from circle office though prior to mutation order, these appellants had already filed appeal in district court. Learned advocate alleged that concern staffs of circle didn't visit spot and mutation order is based on Table work. Learned advocate said that mutation order is against the natural Justice as appellants were not heard by circle officer Arwal. Learned advocate while arguing in court stated that disputed land is "Bakasht" land of Ex-Zamindar Hari Kishor Ojha. Learned advocate has mentioned in detail in his written argument and claims that vendor of appellants were the genuine title holder and after purchase of land, appellants are in peaceful possession of the disputed land and pleads for spot verification. Learned advocate has quoted rulings of Honourable High Court Patna in LPA-819/2002 dated 17th July 2002 and says that as per this Judgement, mutation has nothing to do with Title. Further, learned advocate has clarified that un official name of op 02 is Saurabh Thakur and he is known by this name in village. Learned

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advocate has mentioned in written argument that order passed by SDM Court Arwal U/S 144 of crpc is in favour of appellants or their vendors. Finally learned advocate of appellants argued for cancellation of mutation order of circle officer Arwal in case No-1391/15-16.

Learned advocate of defendant submitted that he represents Aman Thakur (op-01) and said that op-02 should be Gaurav Thakur instead of saurabh as mentioned in plaint. He said that Aman Thakur & Gaurav Thakur are own brothers. Learned advocate said that plaint is devoid of facts and is based on hypothetical ground. He said land mentioned in schedule is purchased land of defendants. These defendants has purchased the disputed land from right, Title, possession holder & descendants of khaitiyani raiyats namely Banwari Sao, Marwari Sao, Budhan Sao, Chandeshwar Sao all S/O Late Madhusudan Sao & Ram Pravesh Sao, Yamuna Sao, Ramashrai Sao all S/O Late Raja Ram Sao & phulkuñwar Devi of Mauza-Pipra Bangla dated 10th May 2010. Learned advocate also submitted Geneological Table of vendors of defendants and said that Late Fakira Kanu had two sons namely Jangi Kanu (khatiyani raiyat) & Phekan Kanu (khatiyani raiyat who died issules). This Jangi kanu had one son namely Jaggu kanu who had two sons namely Hussaini Sao & Madhusudan Sao. This Hussaini Sao had only daughter namely Phulkunwar Devi who had three sons namely Ram Pravesh Sao, Yamuna Sao & Ram Nath Sao

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& other vendors are children of Madhusudan Sao. Learned advocate informed that when appellants of this case started creating trouble at spot then defendants had filed Title Suit No-41/2011 in civil court Jehanabad and later it was transferred to civil court Arwal and accordingly order was passed in favour of defendants. So based on this order, defendants applied for mutation in circle office Arwal and after following due procedure, order was passed in favour of defendants on 11 Feb 2016 in mutation case No-1391/15-16. Learned advocate said that vendors of appellants didn't had right, Title nor they have possession over disputed land. Learned advocate while arguing in court refuted the allegation of appellant that karamchari has wrongly reported about khesra No and he drew attention towards correction slip issued by circle office. Learned advocate emphatically said that these appellants doesn't have right to get their appeal accepted till appellant civil court order comes in favour of appellants of this case. Finally, argued for rejection of relief sought by appellants and dismissal of the case.


Heard the learned advocates & Perused the documents available on record. Appellants has submitted Photostat copies of order sheet of circle office, plaint of T.A.-62/2015, kewalas, revenue receipts, order passed by court of SDM, Arwal & other related documents where as defendant has submitted photocopy of order passed in T.A. No-41/2011 and in addition to it, LCR from circle office Arwal is available

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on record. After looking these documents it seems that appellant rightly claims that order passed by SDM Arwal U/S 144 in case No-712/2010 & U/S 145 crpc in case No-828/2010 is in their favour and there is possibility that appellants may not have received notice from circle office. However, civil court, Arwal has passed order in T.S. No-41/2011, which is in favour of defendants and as per this order, disputed land is in possession of defendants. However, learned advocate of appellant, emphatically claims that appellant has possession of disputed land. So at present, possession of defendants is doubtful but order of T.S. No-41/2011 being in favour of defendants, this court can not give any relief to appellants till Title Appeal No-62/15 is decided by the concerning Honourable civil court.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.

