

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख साथ
14-02-19	<p style="text-align: center;"><u>In The Court Of: Land Reforms Deputy Collector, Arwal.</u> Mutation Appeal Case No – 13/2018-2019 Ajay Kumar & Others–Appellant Vrs Manju Devi & Others-Defendent. Present- Rakesh Kumar, DCLR <u>Learned Advocate of appellant.</u> 1. Sri. Bimal Kumar. 2. Sri. Arvind Kumar. <u>Learned Advocate of Defendent.</u> 1. Sri. Santosh Kumar.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>The learned advocate of appellant submitted on behalf of Ajay Kumar & Braj Kishore both S/O Tepeshwar Singh, Village-Pahleza, PS-Mehanadiya, Dist-Arwal. Learned advocate submitted the Geneological Table of the family and said that Hridya Nand Singh was father of Rajeshwari Singh. This Rajeshwari had two wives and first wife was Munukrani Devi @ Jagatrani Devi and they had only girl child namely Parvati Devi who was married to Tapeswar Singh. This Parvati has two sons and they are appellants. However, Rajeshwari Singh didn't have male child, so he married Heeramani Devi in year 1962 and out of this wedlock also, Rajeshwari had only a girl child namely Manju Devi (op). Learned advocate said that rent receipt with respect to 04 Acre 84 dec under khata No-524, 177, 178, 525, 493 and 70 granted is in name of Parvati Devi W/O Tapeswar Singh and she paid rent of aforesaid land to govt and was granted rent receipt with out any hindrance. He informed that rent receipts with respect to khata-177, 15, 25, 627, 147, 148, 626, 179 with respect to 07 Acre $14\frac{1}{2}$ dec was running in joint name of Parvati Devi and Heeramani Devi. However, after demise of Heeramani Devi, same came into possession of</p>	

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Parvati Devi and she paid rent to govt, through out her life and it means mother of appellant was in peaceful possession over the proceeding land. Learned advocate stated that Manju Devi after her marriage was residing in her matrimonial house and had no relation from her "naihar" village-Pahleza and the entire property are in peaceful cultivating possession of Parvati Devi. Learned advocate informed that Parvati Devi had given an affidavit to open demand with respect to her property in favour of her both sons Ajay & Braj Kishor on 04.12.2015 and later, Parvati Devi the mother of appellants died on 19.03.2016 leaving appellants as their heirs and accordingly appellants came into possession over the said land as absolute owner and title holder. Learned advocate informed that appellants filed an application before circle officer kaler for mutating the demand of land running in name of Parvati Devi comprising an area of 04 Acre 84 dec and of land whose demand runs in joint name of Parvati Devi & Heeramani Devi with respect to 07 Acre 14 $\frac{1}{2}$ dec. Learned advocate also said that karamachari after enquiry recommended for allowing mutation after serving personal & general notice to concerning parties after the measurement of land but the mutation case No-944/2016-2017 of circle office kaler was rejected by circle officer vide order dated 06.02.2017. Learned advocate alleged that court below didn't peruse or considered the documents filed on behalf of appellants. Circle Officer didn't consider the fact that land in question is raiyati land of appellants and demand exists in name of mother & maternal grand mother of appellants. He said that no any objectors made any objection but learned court below passed an illegal order. Further, circle officer didn't comply the order passed by this court in case No-103/2015-2016 in which direction was given to measure & demarcate the land in question and mutate the same after perusal of documents. Learned advocate alleged that court below didn't consider the

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fact that appellants had also taken loan from Punjab National Bank on proceeding land through registered mortgage deed dated 16.11.2018. Learned advocate while arguing in court said that in mutation case No-944/16-17 no one has objected and informed that in Title Suit No-162/1990 learned court of Munsif Jehanabad had not passed any adverse order against Late Parvati Devi, infact it was dismissed due to continuous absence of Parvati Devi, so this order is not in favour of op of this case. Further, Parvati Devi had filed a partition suit No-18/2002 in court of Sub-Judge, Jehanabad and against the order of this court, appellant has filed an appeal as case No-149/2012 in Honoureaible High Court, Patna. So inspite of decision in case No-18/2002, Parvati Devi had been paying rent to Govt. Learned advocate alleged that "Wasiyat" claimed to be signed by Heeramani Devi is false and when Parvati Devi objected the probate then probate case was turned into Title case which is proceeding in court of additional Judge, Jehanabad. Learned advocate is of view that op's mother had married in life time of Parvati Devi's mother in year 1962 which was an illegal marriage and Honourable High Court Patna is yet to decide over this issue in relation to Title of this case. So learned advocate pleaded for dismissal of the order passed by learned circle officer kaler in mutation case No-944/16-17 and wants direction from this court for mutating the land claimed by appellant as a heir of their mother Late Parvati Devi.

Learned advocate of opposite party submitted that case filed by appellant is barred by time limitation. Learned advocate also narrated the story as done by appellants in relation to marriage of Rajeshwari Singh with Muluk Rani Devi alias Jagat Rani Devi and later due to non male issue, he married Heeramani Devi. However, year of marriage given by op is 1954. Learned advocate said that Rajeshwari Singh died in year 1962 during life time of his father Haridya Nand Singh leaving

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behind his two wives & accordingly two daughters namely Parvati Devi & Manju Devi born respectively from 1st & 2nd wives. Learned advocate claimed that Muluk Rani Devi & Heeramani Devi had partitioned their joint family property in year 1973. Later Haridya Nand Singh gave his share to Heeramani due to his personal selfless service to him. He informed that Muluk Rani Devi expired in year 1982 and Hridya Nand Singh expired in year 1988. He further said that after demise of these persons, Parvati Devi started quarrelling with Heera Mani Devi for having share in land which was given personally by Hridya Nand Singh to Heera Mani Devi. So on their request a "Panchnama" was prepared and panches Signed it on 06.07.1990. So as per this "Panchnama" document Parvati Devi, Heeramani Devi & Manju Devi received equally as 1/3rd share. Late Heeramani Devi wrote "Wasiyat" dated 12.08.2002 in favour of Manju Devi and its probate case No-08/2008 is proceeding is Honourable court of District Judge, Jehanabad. Learned advocate also informed that appellants of this case has also filed a Title Suit No-31/2015 in learned court of Munsif, Arwal against Manju Devi & others. He also alleged that applicants has taken part of disputed land to be their land in Land Possession Certificate and has taken loan on that basis from Bank and for this misdeed of appellants, op's are taking advise for leagal action against appellants. Learned advocate agreed that Title case No-160/1990 was filed by Parvati for nullifying the "Panchnama" in court of munsif, Jehanabad and due lack of "Pairvi" this case was dismissed on 23.09.1973. Learned advocate said that Parvati Devi has sold maximum part of land received as his share to different persons. Learned

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advocate also narrated the same story as by appellant in relation to case No-160/1990 & partition suit case No-18/2002 and said that appellant has filed a case in Honourble High Court, Patna. Learned advocate alleged that appellant had hidden the fact in relation to case filed in Honourable High Court, Patna and said that CO Kaler has correctly passed the order in mutation case No-944/16-17. He is of view that on basis of "Panchnama" appellant doesn't have any right in land of Heeramani Devi & Manju Devi. Further, learned advocate while arguing in court, emphatically claimed that appellants doesn't have possession over the land claimed by appellant and finally pleaded for dismissal of the case.

Heard the learned advocate of both the parties & perused the documents available on record. Appellants has submitted photocopies of LCR, rent receipts, order of this court in case No-103/2015-2016, photocopies of kewala, written argument where as op has submitted photocopies of Panchnama, order in T.S. case No-18/2002 and appeal case filed in Honourable High Court Patna by appellant of this case, wasiyatnama Heeramani Devi vrs Manju Devi, rent receipts, copy of panji-02, copy of P.S. No-08/2002, probate case No-08/2006 and etc. So after going through these documents it is found that appellant of this case had already filed a mutation Appeal case No-103/15-16 and in this case order was passed by this court is favour of appellants as on disputed land, Punjab National Bank had given loan to them. Further, op of the case is same person but in that case op's had not submitted any document. However, this time new fact has emerged that appellant has gone to Honourable High Court Patna in relation to Title based on land mentioned in

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"Panchnama" & 'wasiyat' submitted by op. Here, it is found that this court has already passed an order in mutation Appeal case No-103/2015-2016 in which circle officer kaler was directed to measure & demarcate the land of appellants on which they have taken loan from Bank after assessment & based on possession but circle officer, kaler has rejected it as disputed land couldn't be measured. However, the opposite party orally said in court that a case was filed in this court for measurement against which they appealed in court of Honourable Commissioner, Magadh Division Gaya. However, he also said that op's doesn't have any objection if land mutated solely in name of Late Parvati Devi is mutated in favour of appellants. However, op's have objection in only of land which are jointly in name of Late Parvati Devi & Late Herramani Devi as that is under dispute in different courts. So in this situation, C.O. is being directed to transfer the land mutated is name of Late Parvati Devi to appellants. However, it is to clarify that, this court can not reorder on same issue which was put forth in mutation Appeal case No-103/2015-2016. So that order is still valid, aggrieved party can appeal is competent court.

Dictated and corrected

Arwal
14/10/19
Land Reforms Deputy Collector
Arwal

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14/10/19
Land Reforms Deputy Collector
Arwal.