
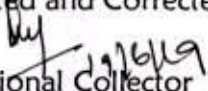



Serial Number and date of order. 1	Order and signature of officer 2	Note or action taken on order with date 3
	<p style="text-align: center;"><u>Mutation Revision Case No 118/2018</u></p> <p style="text-align: center;"><u>Order</u></p> <p>The present revision case has been filed by the petitioner Md. Imtiyaz Ahmed S/o- late Kabir Ahmed, Saharsa Basti, Ward no 31, Saharsa against the order of D.C.LR. Saharsa passed in mutation appeal no. 80/2017-18 dt. 21-06-18.</p> <p>The claim of the revisionist is that the revisionist belongs to Muslim community and is guided by the Muslim Personal Law and also done all the affairs as per the Muslim law. The applicant has further stated that Bibi Hasina Khatoon wife of Late Md. Kabir Ahmed had its own properties and Bibi Hasina Khatun in her life time out of her love and petty executed a registered will for an area 61.12 decimal in favour of revisionist on 07-02-13. But Bibi Hasina Khatun died on 01.02.2015 leaving behind the petitioner and other heirs and on the basis of registered will deed no. 10 dt. 07.02.2013 came in possession over the said land. Thus the other heirs of Bibi Hasina Khatun have no concern to the said land and the petitioner filed petition for mutation to the C.O. Kahra regarding the aforesaid will land vide case no. 5016/2017 and the proceeding of mutation initiated by the C.O and general and particular notices issued and no one filed any objection regarding the suit land. But the learned C.O. behind the back of petitioner passed order on 04.02.2017 against the law and principle of Muslim Law. The applicant has further stated that the C.O. Kahra in his order wrongly held that the copy of probate was not filed and on this basis against the law illegally passed order on 04-02-2017. The petitioner against this order filed mutation appeal before the L.R.D.C Sadar Saharsa and learned L.R.D.C</p> <p style="text-align: right;"></p>	

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	<p>also dismiss the mutation appeal wrongly on 21-06-2018.</p> <p>On behalf of the State A.G.P has reported that Bibi Hasina Khatoon expired on 01-02-2015 leaving behind her legal successors who has no objection on the will executed by Bibi Hasina on 07-02-2013 in favour of a particular legal heir. So far as the validity of will under Muslim personnel law is concerned, Hon'ble High Court, Patna has opined in Civil Revision No. 471/04 on 24.06.2004.</p> <p><i>"after hearing the learned counsel for the parties and after perusing the materials on record, it is quite apparent that the probator as well as the parties to the probate case as well as title suits are mohamedans and a will under mohamden law need not be probated. There are critarions for a valid will enshrined in mohammaden law."</i></p> <p>In All 91 (P.C) in para 5 has been mentioned that-</p> <p><i>" By the Mohammdean Law no writing is necessary to make a will valid, and no particular form, ever verbal declaration is necessary as long as the intention of the testator is sufficiently ascertained." In Mazhar Husen V. Bodha Bibi" the Privy Council held that a letter written by a testator shortly before his death and containing direction as to the disposition of his property constituted a valid will. A mohammedan will though in writing does not require to be signed, nor ever if signed, does require attestation. Even probate is not necessary. "</i></p> <p>That L.R.D.C in his order dated 21-06-2018 passed in mutation appeal case no. 80/17-18 has wrongly observed that C.O. Kahra has rightly rejected the case of the applicant for mutation of the land in question in his mutation</p> <p style="text-align: right;"><i>dy</i></p>	

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	<p>case no. 5049/ 16-17. Since both the parties are mohammedan and under mohammedan law a will is not required to be probated, hence the case of the applicants should not have been rejected by the Circle Officer. Consequently, the present revision is allowed in favour of the petitioner and circle officer is directed to mutate the land in question in favour of the petitioner.</p> <p>With aforesaid observation the revision case is disposed off.</p> <p>Dictated and Corrected.</p> <p> Additional Collector Saharsa</p> <p> Additional Collector Saharsa</p>	