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12/11/14

IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. _____/2014

Raj Kishore Lal.... Petitioner.

Versus

The State of Bihar and Ors.

.....Respondents.

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Sub :- Mutation Act

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| | | Vakalantama | |

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SYNOPSIS

Relief Petitioner moved before this Hon'ble Court for quashing of order dated 29.12.11 passed in Misc. case No. 03.11.12 by the Circle officer Puraini , District - Madhepura by which he has rejected the claim of petitioner.

The land situated in Khata No. 608 Khesra No. 1288 area 0.02 decimal is ancestral Property of petitioner. In Revisional Survey the abovesaid land sifted to other share holder of his family. Petitioner filed case before

the consolidation officer and on 09.07.2007 he passed order in his favour. Thereafter petitioner wondering for got his rent receipt but the respondent authority knowingly reject the claim of petitioner.

Date and documents

- 1 A copy of Khatian.
- 2 A copy of order dated 09.07.2007
3. Annexure -3 Photo copy of order dated 29.12.11.

HENCE THIS WRIT APPLICATION.

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GOVT. OF BIHAR
REGISTRATION, EXCISE & PROMOTION DEPT.
PATNA SCORE PATNA

COURT FEE

Authorization No. 267



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JUDICIAL

11.11.2014

BIHAR

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Through
Alok Kumar Singh

IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. _____/2014

In the matter of an
application Under
Article 226 of the
constitution of
India.

And

In the matter of ;
Raj Kishore Lal , Son of Late Madan
Lal , R/O Village - Puraini Bazar,
P.S. - Puraini, District - Madhepura

.....Petitioner.

Versus

1. The State of Bihar through the Principal
Secretary Revenue Department Government
of Bihar, Patna.

2. The District Magistrate Madhepura.
3. the Deputy Collector of land Reforms ,
Udakishunganj, District - Madhepura.
4. The Circle Officer, Block Puraini,
District - Madhepura.
5. Bhagwan Lal, son of Late Anti Lal R/O
Village - Puraini Bazar, P.S. -
Puraini, District - Madhepura.

.....Respondents.

To,

The Hon'ble MS Justice Rekha M.
Doshit, the Chief Justice of the High Court
of Judicature at Patna and her Companion
Justices of the said Hon'ble Court.

The humble petition
on behalf of the
petitioner named
above.

MOST RESPECTFULLY SHEWETH :-

1. That this is an application on behalf of above named petitioner for issuance of appropriate writ(s) / Order (s)/ Direction(s)/ for quashing of the order dated 29.12.11 passed in Misc., Case No. 03 /11-12 by the Circle officer Puraini District Madhepura by which he has rejected the Claim with regard to Mutation his name in Thana No. 146 , Khata No. 608, Khesra No. 1288, Area 0.01 Decimal.

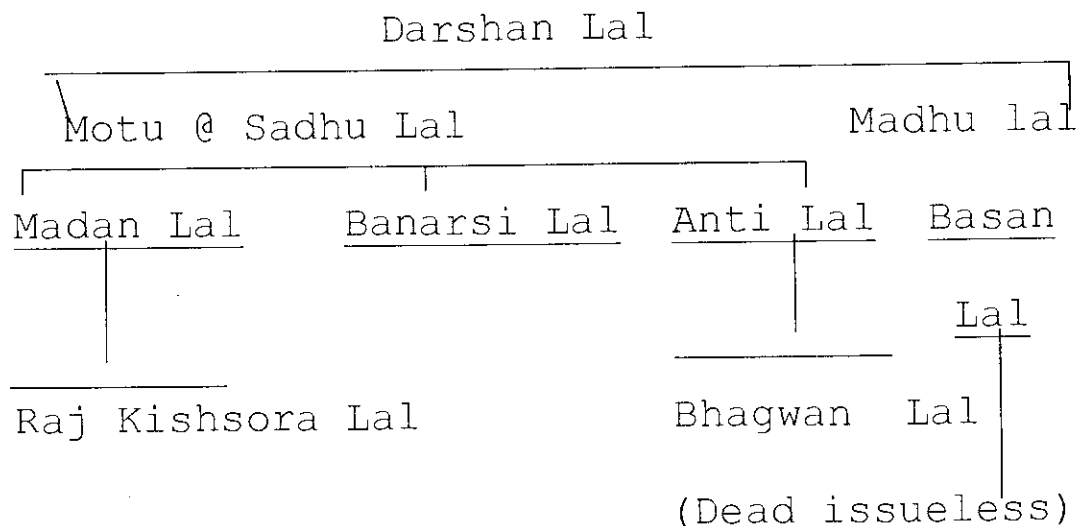
Further respondent be directed for mutation his name as per the order passed in Case No. 3229/78 under Section 106 BT Act by the competent authority on 09.07.07.

And /Or any other relief as per the facts and circumstance of the case.

2. That the present writ application is based on the ground that after the order of a competent authority the respondent circle officer is not mutating the name of the petitioner in Khata No. 608 , Khesra 1288 Area 0.01 Decimal land in his favour is illegal, malafide , arbitrary and also a clear case of non application of mind. The action of Respondent is also violative of Article 14,16, and 21 and also against the Government Policy.
3. That the petitioner is citizen of India and residing within the territorial Jurisdiction of this Hon'ble Court.
4. That it is stated here that the land situated in Khata No. 608 Khesra No.

1288 , Area 0.2 Decimal in Thana No.
146 , circle Puraini, District -
Madhepura is ancestral property of
petitioner.

5. That it is stated here that the
petitioner genealogical tree are
given below.



6. That it appear from the above said
genealogical tree that Dharshan Lal
had to sons namely Sadhu Lal and
Madhu Lal and Sadhu Lal had three
sons namely Madan Lal, Banarsi Lal and
Anti Lal. Petitioner is son of Late

Madan Lal and Banarsi Lal sold his share and left Purnia and sifted other place . The son of Madhu Lal was Banarsi Lal and he died issueless and he gifted his Property to the petitioner.

7. That it is further stated here that thereafter petitioner and Bhagwan Lal become the half sharer of the property.
8. That it is stated here that in revision Survey the name of Basant Lal , Son of Madhu Lal half Share and Anti Lal , Son of Sadhu Lal half share. However it may be entered as Basant Lal , Son of Madhulal half share and madan Lal, Anti Lal, Son of Sadhu Lal half share.

A copy of Revisional Khatiyani is being annexed hereto and marked as Annexure -1 to this application.

9. That the petitioner filed a case No. 3729 of 78 before the consolidation officer, Saharsa against the wrong entry in revisional Survey Khatiyani. After hearing the matter on 09.07.07 the consolidation Court Directed to entry the name of petitioner in Khata No. 608 Khesra No. 1288 Area 0.01 decimal and rest of land kept for other share holder.

A copy of order dated 09.07.07 is being annexed as Annexure -1

to this application.

10. That on the basis of above said order, termin in Khatiyān , the petitioner filed several application before the circle officer Puraini for got the rent receipt but on the wrong report the circle officer rejected the application of petitioner.

11. That thereafter lastly again petitioner filed a case on 20.12.11 before the Lok Adalat which was held in Puraini . The said matter was transferred before the circle officer Puraini for redressal the grievance of petitioner on 20.12.11 the circle officer rejected the application of petitioner on wrong report submitted by the Halka Karmchari.

A copy of order dated 29.12.11 is being annexed hereto and marked as Annexure -2 to this application.

12. That it is appear from the impugned order the circle officer without verifying the order passed in suit No. 3729 /78 by the consolidation officer Saharsa and rejected the claim of petitioner.
13. That the circle officer while rejecting the claim of petitioner has failed to appreciate the facts and law that merely wrong entry in Survey Khatiyān did not entails any right Admittedly .
- 14 That the property in question is joint property and entry only one son

of equal share holder is itself a wrong which has been ordered to be corrected by the consolidation officer.

15. That the order passed by the circle officer rejecting the claim of petitioner is wholly without jurisdiction. The circle officer has no jurisdiction to go beyond the order and direction passed by the competent court, under section 106 of B.T. Act . In other words he is duty bound to make correction as per the direction as given by the competent court unless and until it is reversed by the superior court or Hon'ble Court.

16. That the action of respondent is illegal malafide, arbitrary, malicious and bad in law and also in facts.

17. That the action of respondent is violative of article 14,16 and 21 of constitution of India as well as also against the policy of state Government.
17. That it is submitted for the ends of Justice the impugned order may be quashed .
18. That the petitioner has not any other alternative and efficacious remedy except to move this Hon'ble Court and the remedy applied for is legal and complete.
19. That the petitioner has not moved this Hon'ble Court earlier in the instant matter.

It is, therefore prayed, that Your Lordships may graciously be pleased to issue notices to

the Respondent and after hearing the parties may allow the prayer made in the Paragraph No. 1 of this application.

And / Or

Pass any such other order as Your Lordships may deem fit and proper.

And for this petitioner shall ever pray.

Affidavit

I, Raj Kishore Lal, aged about 50 years, Son of Late Madan Lal, R/O Village - Puraini Bazar, P.S. - Puraini, District - mddhepurdo hereby solemnly affirm and state as follows:-

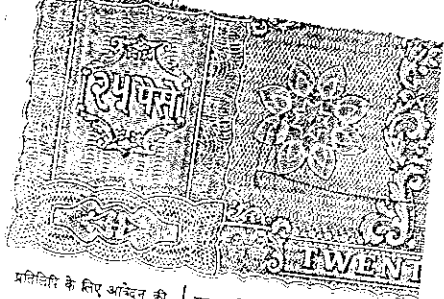
1. That I am petitioner in this case and as such I am well acquainted with the facts and circumstances of the case.
2. That I have gone through the contents of this case and I have understood the same.
3. That the statements made in Paragraph no 1 to 7 10, 12 to 16 and are true to my knowledge and those made in paragraph nos. 8, 9, 11 are based on information derived from the records and rests are by way of submission before this Hon'ble Court.
4. That the annexures are true/ photo copies of his respective originals.

-TJ 1962/117 27/10/14
12/11/14

Identify R. R. Kanarth
A/c to Mr. R. K. Singh

R. N. - 1644/14

12/11/14



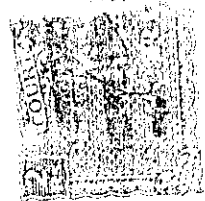
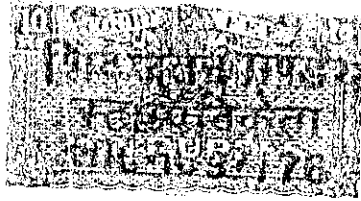
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| प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित Date req |
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मीठा-
 धुल्ला-
 रविवारा का
 शिवायले
 धर्मा ठका
 ६०८
 पुश्नी
 शिबुनगंज
 आर्यागंज
 लाल बहन शकुवन
 और आत
 वर्यनमाल पिता
 मधुलाल एक अंम
 तथा आबिदाल पिता
 मिहू लाल एक अंम
 आर एक अंम
 एक अंम
 विवासी
 मीठा गाण



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Exposure - I



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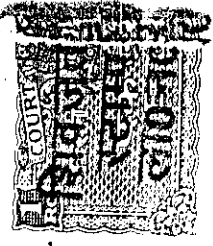
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9/11/10



6/7/07

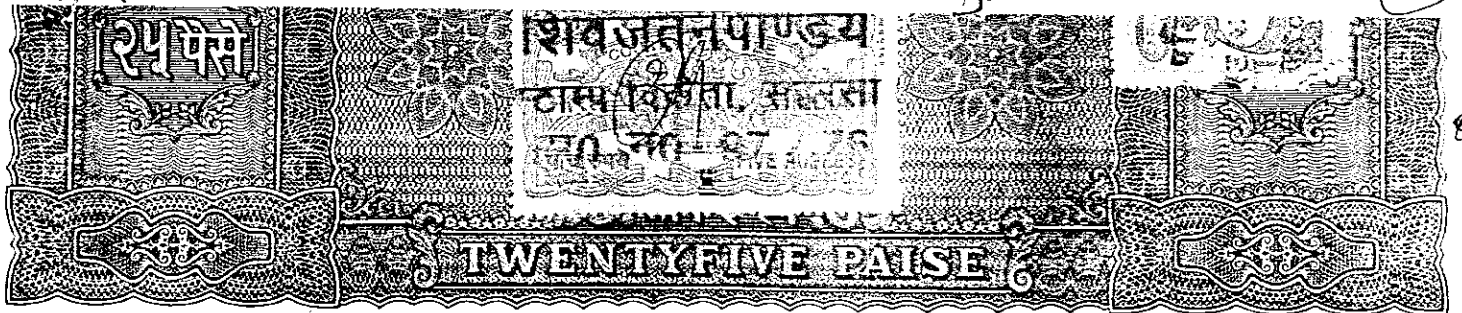
कारिका

प्रमाण नम्बर है. 3743/78 कोड/24/1064
 श्री प्रमुख नारी आन्दोलन (लाला विद्या लाल) द्वारा
 प्राप्त पत्रों का निम्नलिखित है।
 कि आशा है कि यह प्रमाण नम्बर
 के विवरण दृश्य विद्यमान है।

प्रमाण नम्बर है कालिका के द्वारा
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| 15/05/12 | 15/05/12 | | 16/05/12 | 16/05/12 |

केश का प्रकार :- आंश-पक्का
विषय वाद सं० 03/11-12
अंचल - फुरेंवी अठमंडल - उदाकिशुक्तांज जिला - मयेंपुरा
पदाधिकारी का आदेश

तारीख 29/12/11 अभिमुक्ति

यह अभिलेख राजकिशोर लाल पिता - स्व० मदन लाल साठ - फुरेंवी बाजार द्वारा दिनांक 20/12/11 को लोक अदालत फुरेंवी में मौजा फुरेंवी थाना नं० 146 खाता नं० 608 सेरा 1288 रकबा - 0.01 बी० का नामांतरण हेतु प्रकीर्ण में भी अनकोपाव प्रश्नगत जमीन के संबंध में नामांतरण हेतु आपेदन किया गया था। प्रश्नगत जमीन की जमावंदी रेंयत सुनिता देवी पति-भठापान लाल साठ - फुरेंवी है। आपेदक द्वारा पूर्ण में किये गये इसी जमीन से संबंधित नामांतरण के संबंध में इसका कर्मचारी स्प. प्रभारी अंचल निरीक्षक द्वारा प्रतिवेदित किया गया है कि आपेदक द्वारा पूर्ण में किये गए इसी जमीन से संबंधित नामांतरण के संबंध में इसका कर्मचारी स्प. प्रभारी अंचल निरीक्षक द्वारा प्रतिवेदित किया गया है कि प्रश्नगत जमीन पर आपेदक राज किशोर लाल का कब्जा नहीं है।

इस वाद से संबंधित भरे द्वारा भी विस्तृत रूप से जांच की गई परिपोषाज्ज स्पष्ट हुआ कि प्रश्नगत जमीन खाता - 608 सेरा - 1288 रकबा - 0.02 का सतियान पसंत लाल पिता - मदन लाल पो अक्ती पति-भठापान लाल सतियानी रेंयत अन्तीलाल के पुत्र है। इस रक और सतियानी रेंयत पसंतलाल का कोई आलाद नहीं था।

नवंबर 1912
16/05/12

16/5/12

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| प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant. |
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इस प्रकार आवेदक राजकिशोर लाल सिधे तौर पर सातवाणी रेंट के
 परिभाषण नहीं है। प्रतिक आवेदक सातवाणी रेंट अम्मी लाल के भतीजा है।
 भरे द्वारा प्रश्नगत अमीन का स्पष्ट स्थल ज्ञात किया गया। स्थल ज्ञात
 पाया गया कि प्रश्नगत अमीन पर किसी भी अंग पर आवेदक राज किशोर
 लाल का पकड़ कब्जा नहीं है। प्रतिक प्रश्नगत अमीन पर अमावदी रेंट
 श्रद्धा देवी प्रति- भगवान लाल का दुकान तथा अमावदी रेंट द्वारा किराये
 भाड की मिठाई की दुकान किराये पर दिया गया है। इस प्रकार आवेदक
 राज किशोर लाल का प्रश्नगत अमीन पर कब्जा है और नहीं पकड़ कब्जा
 है। इसी आधार पर गामांतरण पाद सं० ॥३/११-१२ स्पष्ट गामांतरण पाद सं०
 ॥६३/११-१२ को अलोक में गामांतरण अस्वीकृत किया गया। व्यक्तित्व तौर पर
 आवेदक राज किशोर लाल द्वारा सक्षम न्यायालय में अपना दावा पेश करने के
 लिए कई बार कदा गया परन्तु आवेदक द्वारा बार-बार पेपजट अंचल अधिकारी
 के न्यायालय में दावा पेश किया जाता है जिससे पेपजट समर्थ की वर्षादी होती
 है। ऐसा प्रतीत होता है कि आवेदक राज किशोर लाल द्वारा यह दस्तावेज
 क्लर किया जाता है। अतः पूर्व की भाँती इस बार भी आवेदक राज
 किशोर लाल द्वारा दिये गए आवेदन को अस्वीकृत किया जाता है।

लेखापित स्पष्ट शीर्षक
 ६०/अस्पष्ट
 २९/१२/११
 अ०
 (हस्ताक्षर)

६०/अस्पष्ट
 २९/१२/११
 अंचल
 अधिकारी
 (हस्ताक्षर)

संख्या ११२
 दिनांक २९/१२/११

प्रमाणित किया जाता है कि इसको
 (हस्ताक्षर)
 (हस्ताक्षर)
 (हस्ताक्षर)

संख्या ११२
 दिनांक २९/१२/११

