

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12126 of 1996

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1. LALDHARI YADAV AND
2. GOBARDHAN YADAV, BOTH SONS OF JAGAN YADAV,
RESIDENT OF VILLAGE TELUHA POLICE STATION NAUTAN,
DISTRICT WEST CHAMPARAN Petitioners

Versus

1. THE STATE OF BIHAR
2. THE COLLECTOR, EAST CHAMPARAN, BETTIAH
3. ADDL.COLLECTOR, ETTIAH
4. ANCHAL ADHIKARI, ARERAJ BLOCK, EAST CHAMPARAN
5. (i) JOHARI KHATOON WIFE OF LATE WAKIL MIAN
(ii) NASEB MIAN AND
(iii) SAHEB HUSSAIN MIAN, BOTH SONS OF LATE WAKIL
MIAN, VILLAGE SHYAMPUR KOTRAHA, POLICE STATION
NAWTAN DISTRICT WEST CHAMPARAN

..... Respondents

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Appearance :

For the Petitioners : Mr. K.K.Tiwary, Advocate and
Mr. Lokesh, Advocate
For the State : Mrs. Nivedita Nirvikar, GA 10
For the private rspt : Mr. Jawahardhari Singh, Advocate and
Mr. Nitya Nand Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

8 14-05-2015 Heard learned counsel for the petitioners, State and
the private respondents.

The writ petition has been filed for quashing order of the
Collector, East Champaran, Bettiah dated 17.7.1996, passed in
Confidential branch File 9-2(E) 94-95-96, contained in
Annexure 6 recommending cancellation of Jamabandi in respect
of the disputed plot and for prosecution of the petitioners.

Petitioners' challenge is founded on the ground that no
opportunity of hearing was provided to them before passing of

the impugned order. The land in dispute belongs to village Chaita, Anchal Areraj, district East Champaran having following descriptions:-

Khata no.	Plot no.	Area	Jamabandi no.
30/47	7343/330	AD/5.22(0-3-19)	691
30/47	7342/333	5.39(4-1-10)	691
30/47	1/335	6.00(4-10-1dh)/16-60 12-10-11	691

Case of the petitioners is that the said land was settled by Bettiah Estate in the name of Seo Bachan Yadav who is father of original petitioner Jagan Yadav (since deceased). Khatian was also prepared after settlement of land by the Bettiah Estate. He used to pay rent to Bettiah Estate and after vesting to the State Government. Petitioners further claim that they are in the peaceful possession of the land.

On the other hand, case of private respondents i.e. respondents no. 5(i), (ii) & (iii) is that 7.7.14 Bighas of land appertaining to Plot no. 7347/37,1/64/1701 and 1/64/1702 having Khata no.819 were settled with them in the year 1949 by Bettiah Estate by giving the BH form. They further state that on a petition filed by original respondent no.5 before the SDO, Motihari as well as before the Police Inspector, Areraj on 20.3.1993, the ASI of the Malahi police station, the Sub



inspector of that station and the Dy.S.P. visited the spot and enquired into the matter on 30.3.1993 and submitted report before the SDO, Sadar, Motihari vide report dated 4.4.1993. Further, the Superintendent of Police, Champaran vide his letter no.325 dated 1.3.1994 requested the collector of the district to solve the dispute between the parties. The Collector directed the Addl. Collector to enquire in the matter. After enquiry, the Addl. collector submitted his report on 23.11.1994 (Annexure 4) in favour of the petitioners. However respondent no.5 contended that the certified copy of Khatian produced by the petitioners is not genuine. In support of his submission, learned counsel for the respondents has referred to a letter dated 1.7.1992 written by the Manager of the Bettiah Estate. Learned counsel appearing for respondent no.5 further submits that the petitioners did not present himself in the enquiry made by the Circle officer.

In my view, the matter can be decided on a simple point that the impugned order dated 17.7.1996, passed in Confidential branch File 9-2(E) 94-95-96, contained in Annexure 6, was passed without providing opportunity of hearing to the petitioners. The impugned order has civil consequences as it would affect the right of the petitioners. As such, the same is not sustainable in law. It is accordingly quashed and the matter is

remitted to respondent no.2 for fresh consideration and decision after giving an opportunity of hearing to both the parties.

It is made clear that this Court has not addressed on the merits of the issue. The petitioners as well as respondents must file their appearance before the Collector within 6 weeks from today.

The writ petition stands disposed of.

(Samarendra Pratap Singh, J)

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