

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.260 of 2009
IN
Civil Writ Jurisdiction Case No. 1534 of 2007**

- =====
1. Subhash Prasad, son of Late Jata Shankar Sah
 2. Bhagwat Prasad, son of Gauri Shankar Sah
 3. Dhanjee Prasad
 4. Munjee Prasad
 5. Lalan Prasad
 6. Girija Prasad

Appellant Nos. 2 to 6 are son of Shiv Shankar Sah.

All residents of village – Bideshi Tola Thawe, P.O. – Thawe, P.S. – Thawe, District – Gopalganj, Presently resident of petitioner no. 1, Gauri Shankar Sweets, Main Road, Chiraiyatar, P.O. and P.S. – Kankarbagh, Patna, District – Patna.

-----Writ petitioners ----- Appellants.

Versus

1. The State of Bihar
2. Commissioner, Saran Division, Chapra.
3. Collector, Gopalganj, District – Gopalganj
4. Additional Collector, Gopalganj, District – Gopalganj
5. Subdivisional Officer, Gopalganj, District – Gopalganj
6. Circle Officer, Manjha, District – Gopalganj
7. Circle Officer, Thawe, District - Gopalganj

-----Respondents----Respondents.

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Appearance :

For the Appellant/s : Mr. Shashi Shekhar Dwivedi, Sr. Advocate
Mr. Shailendra Kr.Dwivedi
Ms. Shalini, Advocate
Mr. Ranjan Kr.Dubey

For the Respondents : Mr. Kundan Bahadur Singh, SC-22

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

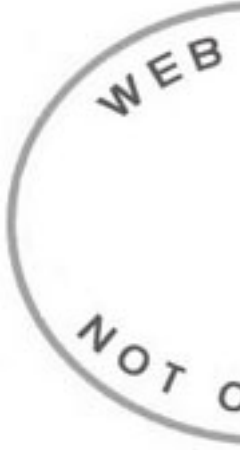
Date: 24-04-2015

This appeal has been filed against the judgment

and order dated 13.01.2009 passed in C.W.J.C. No. 1534/2007. The appellants were the writ petitioners. They had challenged the order of cancellation of Jamabandi in their favour.

2. We have heard learned Senior Counsel Sri Shashi Shekhar Dwivedi for the appellants and learned counsel for the State.

3. The Revenue Authorities up to the Additional Commissioner agreed in support of cancellation of Jamabandi, which was created in favour of the writ petitioners, on the ground that they were unable to produce any authentic paper to show any settlement of the said lands made by the then Hathua Raj in favour of their father or their ancestors. Shri Dwivedi would submit that fortunately on record so available, a Title Suit was filed in the year 1946 by one Guddi Ram in respect of the same plot alleging encroachment. The suit was decreed on 22.06.1948, being Title Suit No. 110/1946. These judicial proceedings were known before vesting of Jamindari knowing fully well that a Title Suit clearly establishes the presence of writ petitioners, who are appellants before us, and their houses were on the plot in question prior to Jamindari abolishes. The writ petitioners were then asked by the Revenue Authorities to produce the returns filed by the Ex-landlord which has been accepted by the learned Single Judge as well that petitioners were unable to file those returns. We again surprised that the



return was filed by the Ex-landlord and are in custody of the Revenue Authorities themselves. It is not the case of the Revenue Authorities that in the returns for the particular area petitioners were not mentioned throwing the burden on the petitioners to produce the returns which returns are with the authorities themselves would be travesty of justice.

4. For the reasons aforesaid, we are unable to uphold the order of learned Single Judge or of the Revenue Authorities cancelling the Jamabandi of the petitioners who are appellants before us. Accordingly, the judgment and order of the learned Single Judge is set aside as well as the orders of Revenue Authorities ordering cancellation of Jamabandi of the writ petitioners being Jamabandi No. 159 and 391, appertaining Plot No. 322, Khata No. 128, Village – Bideshi Tola Thawe, District – Gopalganj.

5. Accordingly, this appeal is allowed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Rajeev/NAFR

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