

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22971 of 2012

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1. Welcome Homeo Laboratories through its Proprietor Sri Raghu Dipti son of Raj Kumar Dipti, resident of Kachahri Road, P.S. Hajipur Town, District - Vaishali at present resident of Village - Dhurlak, P.S. Samastipur, District - Samastipur

2. Welcome Forest and Ucology Co. Ltd. through its Director Sri Raghu Dipti son of Raj Kumar Dipti, resident of Kachahri Road, P.S. Hajipur Town, District - Vaishali at present resident of Village - Dhurlak, P.S. Samastipur, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

2. Collector, Vaishali

3. Deputy Collector Land Reforms, Mahua, District - Vaishali

4. Circle Officer, Rajapakr Anchal, District - Vaishali

5. Suresh Singh son of Late Ram Sogarath Singh, resident of Village - Fatehpur Fulwaria, P.S. Sarai, District - Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate

For the Respondent Nos. 1 to 4 : Mr. Ratnakar Ambastha, AC to GP 13

For the Respondent No. 5 : Mr. Santosh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 15-10-2015

Heard the parties.

By the impugned communication contained in Letter No. 434 dated 13.04.2012 vide Annexure-4, the respondent DCLR, Mahua has cancelled the jamabandi standing in the name of the writ petitioners with respect to the lands in question.

Learned counsel appearing on behalf of the petitioners submits that for the purposes of creation or cancellation of jamabandi with respect to any plot of land, an appropriate petition is required to be filed before the competent authority and thereafter a proceeding is required to be initiated and only after giving an opportunity of hearing to all concerned an appropriate order is required to be passed by the competent authority, but in the present case neither such petition was filed nor such proceeding was earlier initiated. Therefore, according to him, the impugned communication/order is liable to be set aside and

quashed by this Court.

The learned State counsel, appearing on behalf of the respondent nos. 1 to 4 and the learned counsel appearing on behalf of the respondent no.5, though have opposed the prayer made on behalf of the petitioners, but have not been able to show any paper/document that any appropriate proceeding was initiated by the respondent DCLR for the purposes of creation or cancellation of jamabandi. According to them, the matter may be remitted back to the respondent DCLR, Mahua for fresh decision.

After having heard the parties, this Court is of the opinion that the impugned communication/order dated 13.04.2012 (Annexure-4) issued by the respondent DCLR, Mahua cannot be sustained in law, as apparently he had not started any proceeding on the basis of an appropriate petition filed either on behalf of the respondent no.5 or any other person. It appears that merely by the impugned letter, he has directed to cancel the jamabandi standing in the name of the writ petitioners, which is wholly illegal and arbitrary.

For the reasons recorded above, the impugned communication/order dated 13.04.2012 issued by the respondent DCLR, Mahua addressed to the respondent Circle Officer, Rajapakar vide Annexure-4 is hereby set aside and quashed with a liberty to the parties including the respondent no.5 to approach the competent authority for grant of appropriate relief (s) with respect to the lands under dispute.

The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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