

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1616 of 2016
IN
Civil Writ Jurisdiction Case No. 6798 of 2014**

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Bishanudeo Bhagat Son of Late Bhatan Bhagat @ Matar Bhagat resident of village
- Dhane Goraul, P.S. - Goraul, District - Vaishali.

.... Appellant/s

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Secretariat, Patna.
2. The Collector, Vaishali at Hajipur Collectorate.
3. The Additional Collector, Vaishali at Hajipur.
4. The DCLR, Mahua Vaishali.
5. The Circle Officer, Goraul, Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kamlesh Kumar, Advocate.
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-10-2016

Heard Mr. Kamlesh Kumar, learned counsel appearing on
behalf of the appellant.

This appeal, under Clause 10 of the Letters Patent of the Patna
High Court, has been preferred by the writ petitioner, for issuance of
appropriate writ, setting aside the order, dated 21.07.2016, passed in
C.W.J.C. No. 6798 of 2014, whereby a learned single Judge of this
Court has dismissed the prayer of the petitioner-appellant for
quashing the entire proceeding of Encroachment Case No. 56/2013-
14, whereby the District Collector, Vaishali, initiated a proceeding
for cancellation of Jamabandi (i.e., mutation), which was in the

name of the petitioner, and the order, dated 21.02.2014, passed, in Jamabandi Case No. 379 of 2013-14, whereby the Additional Collector, Vaishali, had cancelled the Jamabandi, which was in the name of the petitioner-appellant.

By the order, under appeal, the learned single Judge has dismissed the writ petition on the ground of non-joinder of the necessary parties. This apart, we are of the view that since the appellant has already filed appeal against the order, dated 21.02.2014, whereby Jamabandi was cancelled, no writ petition could have, at the same time, been entertained by this Court. Coupled with the above, considering the fact that Jamabandi was cancelled, Encroachment Case No. 56 of 2013-14 came to be started.

It is the contention of the petitioner that the subject matter of Encroachment Case No. 56 of 2013-14 is covered by Land Encroachment Case No. 1 of 2010-11 and, therefore, the presently impugned Encroachment Case No. 56 of 2013-14 is illegal, particularly because the encroachment proceeding had already been decided, in Land Encroachment Case No. 1 of 2010-11, in favour of the appellant. This aspect of the matter can be brought to the notice of the appropriate authority in Encroachment Case No. 56 of 2013-14 by the petitioner- appellant.

In the above view of the matter, we are of the considered opinion that this appeal must fail. However, liberty is granted to the

petitioner-appellant to file appropriate writ petition in accordance with law if Encroachment Case No. 56 of 2013-14 is decided against him. It will also remain open to the petitioner-appellant to inform the authority concerned, in the Encroachment Case No. 56 of 2013-14, about the encroachment proceeding, which had earlier been initiated and decided in favour of the petitioner-appellant.

We also make it clear that the decision given in favour of the petitioner- appellant, in the earlier encroachment proceeding, cannot be disturbed unless for the reasons recorded, in writing, situation is found to have changed, in accordance with law.

With the observations and directions, this appeal stands disposed of.

(I. A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
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