

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2607 of 2014

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Parshuram Prajapati, Son Of Sri Bigu Prajapati, Resident Of Village - Labhari
Khurd, Police Station - Kutumba District - Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reforms Department
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. Of Bihar Old Secretariat, Patna
3. The District Magistrate, Aurangabad
4. The Deputy Collector, Land Reforms, Aurangabad
5. The Sub - Divisional Officer, Aurangaba District Aurangabad
6. The Circle Officer, Kutumba
7. Ram Bhajan Singh, Son Of Late Ramswaraup Singh, Resident of Village - Babhan Dih, P.S. Risiyap, District - Aurangabad
8. Ambika Singh, Son Of Late Prabhash Narayan Singh, Resident Of Village - Babhan Dih, P.S. Risiyap, District - Aurangabad
9. Surendra Singh, Son Of Late Ramchandra Singh, Resident Of Village - Babhan Dih, P.S. Risiyap, District - Aurangabad
10. Ram Baleshar Singh, Son Of Late Satyanarain Singh, Resident of Village - Babhan Dih, P.S. Risiyap, District - Aurangabad

.... Respondent/s

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For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Adv. Mr.Dronacharya, Adv.
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For the Respondent nos.1to6	:	Mr. Pawan Kumar, AC to GA-9
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For the Respondent nos.7to10	:	Mr.Yogendra Kumar Singh, Adv.
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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 20-07-2016

Heard the parties.

By an order dated 15.03.2013 passed in Demand Cancellation Appeal Case No.19 of 2013, the District Collector, Aurangabad has directed the Additional Collector, Aurangabad to decide the aforesaid case, filed on behalf of the private respondents, under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011').

The petitioner has filed the present writ petition under

Article 226 of the Constitution of India seeking a direction to the respondent nos.3 and 4 to drop the aforesaid proceeding on the ground that certain orders were passed in favour of the petitioner with respect to the lands in question earlier.

Learned counsel appearing on behalf of the petitioner, by referring to certain orders, has submitted that the question of mutation and/or cancellation of jamabandi cannot be opened/agitated again and again either on behest of one person or the other. Therefore, it is pleaded that the aforesaid appeal pending before the Additional Collector, Aurangabad may be directed to be dropped finally accepting the earlier orders passed in favour of the petitioner with respect to the lands in question.

Learned State counsel appearing on behalf of the respondent nos.1 to 6 and the learned counsel appearing on behalf of the respondent nos.7 to 10, on the other hand, submit that under the provisions of Section 9 of the Act, 2011 the Additional Collector is fully empowered to pass an appropriate order for cancellation of jamabandi; therefore, according to them, the District Collector, Aurangabad has rightly issued direction for deciding the aforesaid case, filed for cancellation of Jamabandi, by the Additional Collector, Aurangabad. They further contended that the claim of the petitioner with respect to the lands in question is under serious dispute and the earlier order was not passed in favour of the petitioner after giving an opportunity of hearing to the private respondents; hence these orders are not binding to them. Therefore, it is pleaded that an appropriate direction may be issued to the Additional Collector, Aurangabad to decide the aforesaid Demand Cancellation Appeal Case No.19 of 2013 at an early date. They have further pointed out that on account of pendency of the present writ petition the aforesaid case is still pending

and has not been disposed of till date.

After having gone through the records and taking into consideration the submissions made by the learned counsel appearing on behalf of the parties, this Court is of the opinion that since the matter is still under consideration before the Additional Collector, Aurangabad, who is competent to decide the question involved in that proceeding under the provisions of the Act, 2011, the petitioner should raise all the issues of facts in support of his claim over the lands in question, which have been raised in the present proceeding. It goes without saying that if the order passed by the Additional Collector, Aurangabad goes against the petitioner, then he shall be at liberty to challenge the aforesaid order before an appropriate forum of appeal and revision provided under the Act, 2011.

For the reasons recorded above, the Additional Collector, Aurangabad is directed to take up the aforesaid Demand Cancellation Appeal Case No.19 of 2013 on priority basis and all endeavours shall be made to dispose of the same at an early date preferably within a period of three months from the date of receipt/production of a copy of the present order, but, before passing any final order, an opportunity of hearing must be given to the petitioner as also the private respondents, besides others, if any.

It is also clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question before the Additional Collector, Aurangabad.

In order to expedite the matter, the petitioner as also the respondent nos.7 to 10 are directed to appear before the Additional Collector, Aurangabad within a period of one month from today with a certified copy of the present order, whereafter the Additional

Collector, Aurangabad shall fix a firm date for hearing of the aforesaid case and thereafter shall proceed to decide the matter strictly in accordance with law by a reasoned and speaking order.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2016
Transmission Date	NA