

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9240 of 2015

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Bholi Devi, wife of Bishwanath Gope, Resident of village- Dan Nagar,
Police Station & District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate/District Collector, Khagaria.
3. The Additional Collector, Khagaria.
4. The Deputy collector, Land Reforms, Khagaria.
5. The Circle Officer, Sadar Block, Khagaria.
6. Ganpat Dahlan, son of late Bal Mukund Kumar, Resident of Baluaganj,
Mill Road, Police Station & District- Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abdul Mannan Khan, Adv.
Mr. Anamul Haque, Adv.
For the Respondent nos.1to5 : Mr. Ashutosh Singh, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 28-03-2016 Heard learned counsel appearing on behalf of the
petitioner and learned AC to SC-1 appearing on behalf of the
respondent nos.1 to 5.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order/direction dated 20.09.2014 passed in Misc.Case No.1 of 2014-15 by the respondent D.C.L.R., Khagaria, as contained in Annexure-2 to the writ petition, whereby the respondent Circle Officer, Khagaria has been directed to forward the record for cancellation of Jamabandi No.258 to the Additional Collector, Khagaria by passing an order under Section 9 of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011').

Learned counsel appearing on behalf of the petitioner submits that for cancellation of Jamabandi only the Additional Collector of a district has been authorized to pass an order under

Section 9 of the Act, 2011. According to him, neither the Circle Officer nor the D.C.L.R. of a district is authorized to pass any order regarding cancellation of a Jamabandi standing in the name of a particular person.

Learned State counsel appearing on behalf of the respondent nos.1 to 5, on the other hand, submits that, in fact, by the impugned order dated 20.09.2014 (Annexure-2), the respondent D.C.L.R., Khagaria has merely recommended for passing an appropriate order under Section 9 of the Act, 2011, but Jamabandi running with respect to the lands in question is yet to be cancelled by the Additional Collector, Khagaria; therefore, according to him, the writ petition filed on behalf of the petitioner is premature and is fit to be dismissed.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that so far power of cancellation of Jamabandi under the provisions of the Act, 2011 is concerned, indisputably, that power is vested only with the Additional Collector of a district. No such power is vested either with the Circle Officer or the D.C.L.R. under the provisions of the Act, 2011. So far the present case is concerned, it is true that some proceeding was referred to the Circle Officer and thereafter that matter traveled to the D.C.L.R., Khagaria, but final order regarding cancellation of Jamabandi is yet to be passed by the Additional Collector, Khagaria, which is evident from the last paragraph of the impugned order dated 20.09.2014 (Annexure-2).

In above view of the matter, the petitioner is directed to appear before the Additional Collector, Khagaria within a period of one month from today with a certified copy of the

present order, whereafter the respondent Additional Collector, Khagaria shall pass an appropriate order regarding Jamabandi no.258 for an area of two bighas and 11 dhurs standing in the name of the petitioner. However, before passing any final order, an opportunity of hearing must be given to the petitioner and the respondent no.6, besides others, if any.

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, Khagaria.

It goes without saying that, the respondent Additional Collector, Khagaria, while passing the final order, shall comply the mandate of Section 9 of the Act, 2011 and shall not be prejudiced or influenced by any finding or observation made by the respondent D.C.L.R., Khagaria in his impugned recommendatory order dated 20.09.2014 (Annexure-2).

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

(Birendra Prasad Verma, J)

Arvind/-

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