

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21688 of 2014

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Md. Abdul Rahman S/o Late Md. Rasul, Resident of Village Kamalchak,
P.S. Jagdishpur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Bhagalpur.
3. The Additional Collector, Bhagalpur.
4. The District Land Acquisition Officer, Bhagalpur.
5. The Circle Officer, Jagdishpur, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Adv.

For the Respondent/s : Mr.S.K. Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 28-11-2016

Heard the parties.

The petitioner has filed the present writ petition assailing the validity and correctness of the proceeding of Jamabandi Cancellation Case No. 19 of 2014-15 pending before the respondent Additional Collector, Bhagalpur.

The learned counsel appearing on behalf of the petitioner, by referring to his pleadings, submits that the lands in question belong to the petitioner and, therefore, the respondent Additional Collector, Bhagalpur ought not to have started the impugned proceeding for cancellation of Jamabandi standing with respect to the lands in question.

The learned State counsel appearing on behalf of the respondents, by referring to the averments made in the counter-affidavit filed on behalf of the respondent nos. 2 to 5, as also the findings recorded in the impugned order dated 19.7.2014 (Annexure-14) initiating aforesaid Jamabandi cancellation case, submits that the lands in question has been recorded as “Gairmajarua Aam” land in the revenue record, therefore, the petitioner has no legal right over the lands in question. He further submitted that the aforesaid proceeding is still pending before the

respondent Additional Collector, Bhagalpur and if the petitioner has any legal right, he can produce all the documents in support of his claims.

After having heard the parties and taking into consideration the materials available on the record, two facts are evident viz Firstly, the aforesaid Jamabandi Cancellation Case No. 19 of 2014-15 is still pending before the respondent Additional Collector, Bhagalpur and is yet to be finally decided; and secondly, the claims raised on behalf of the petitioner with respect to the lands in question are under serious dispute. As per the findings of the respondent Additional Collector, Bhagalpur, in the order dated 19.7.2014 initiating the proceeding, the lands in question has been shown to be the “Gairmajarua Aam” land. Therefore, it is evident that the issue raised on behalf of the petitioner in the present proceeding is based on disputed question of facts, which cannot be appropriately gone into in the present proceeding filed under Article 226 of the Constitution of India, at this stage.

In above view of the matter, the present writ petition is dismissed with a liberty to the petitioner to raise all the issues of facts and law, which may be available to him with respect to the lands in question, in the pending proceeding before the respondent Additional Collector, Bhagalpur.

It goes without saying that if the petitioner appears before the respondent Additional Collector, Bhagalpur and places his documents in support of his claims with respect to the lands in question, then the same shall be considered and decided in accordance with law without being prejudiced by dismissal of the present writ petition.

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(Birendra Prasad Verma, J)

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