

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12467 of 2014

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Shibu Singh, Son of Upendra Singh, resident of Village - Olapur Gangaur,
P.S. - Gangaur, District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Khagaria.
3. The Additional Collector, Khagaria.
4. The Land Reforms Deputy Collector, Khagaria.
5. The Circle Officer, Khagaria.
6. Shivchandra Prasad, Son of late Banarsi Bhagat, resident of Babuaganj,
District Khagaria.
7. Ravindra Yadav, Son of Suresh Prasad Yadav, resident of Village -
Olapur Gangaur, P.S. - Gangaur, District - Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Adv.
For the Respondent nos.1to5	:	Mr. Ramadhar Singh, GP-25.
For the Respondent no.6	:	Mr.Ashok Kumar Verma, Adv.
For the Respondent no.7	:	Mr.Lakshmi Kant Tiwary, Adv.
		Mr.Anil Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 26-09-2016

Heard the parties.

The petitioner is aggrieved by the order dated 31.05.2014 passed in Jamabandi Cancellation Case No.4 of 2012-13 by the respondent Additional Collector, Khagaria, as contained in Annexure-7 to the writ petition, whereby jamabandi running in the name of the respondent no.6 with respect to the lands in question has been cancelled.

The learned counsel appearing on behalf of the petitioner submits that the petitioner and/or his family members have purchased the lands in question from the respondent no.6 through different registered sale deeds in the year 2003 on payment of valid consideration. The factum of purchase made by the petitioner and/or his family members was disclosed by his vendor before the respondent Additional Collector, Khagaria, yet, without giving any opportunity of hearing to him, the impugned final order was passed. Therefore, according to him, the impugned

order is fit to be set aside on the ground of violation of rules of natural justice.

The learned counsel appearing on behalf of the respondent no.7, on the other hand, submits that, in fact, the petitioner has no legal right and title over the lands in question, as the lands in question have been recorded as "Gairmajarua Khas Land" in the revenue records. It is further contended that any transfer made by the respondent no.6 in favour of the petitioner or his family members is void ab initio. Therefore, according to him, the order impugned cannot be legally faulted. However, he has not been able to demonstrate from any material that any opportunity of hearing was given to the petitioner also before passing the impugned final order.

The learned GP-25 appearing on behalf of the respondent nos.1 to 5 submits that the parties may be relegated to the Civil Court for getting their right and title decided over the lands in question. However, he has also not been able to show that before passing the impugned final order, the rules of natural justice have been followed.

The learned counsel appearing on behalf of the respondent no.6 supports the case of the petitioner.

After having heard the learned counsel appearing on behalf of the parties and taking into consideration the entire factual matrices of the present case, this Court is of the opinion that the present matter requires reconsideration and fresh decision by the respondent Additional Collector, Khagaria simply on the ground that before passing the impugned final order, the rules of natural justice have not been followed. The other issues raised on behalf of the parties can be very well examined afresh by the respondent Additional Collector, Khagaria. If after hearing the parties, the respondent Additional Collector, Khagaria comes to a conclusion that the title is required to be decided, then he shall be

at liberty to relegate the parties to the Civil Court, but this can be done only after giving an opportunity of hearing to all the parties including the petitioner.

For the reasons recorded above, the impugned order dated 31.05.2014 passed in Jamabandi Cancellation Case No.4 of 2012-13 by the respondent Additional Collector, Khagaria, as contained in Annexure-7 to the writ petition, is hereby set aside and quashed, and the matter is remitted back to the respondent Additional Collector, Khagaria with a direction to decide the aforesaid Jamabandi Cancellation Case No.4 of 2012-13 afresh on merits, but, before passing any final order, an opportunity of hearing must be given to the petitioner, respondent nos.6 and 7 and all other concerned persons, who may have claim over the lands in question.

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 respondent Additional Collector, Khagaria.

In order to expedite the matter, the petitioner and the respondent nos.6 and 7 are hereby directed to appear before the respondent 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 proceed to decide the aforesaid Jamabandi Cancellation Case No.4 of 2012-13 afresh on merits.

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

Arvind/-

(Birendra Prasad Verma, J)

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