

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20434 of 2013

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Ram Sagar Sahani

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rewti Kant Raman

For the Respondent/s : Mr. P.K. Verma

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

9 21-06-2016

Heard learned counsel, Mr. Mahesh Prasad No.2

appearing for the petitioner, the learned Senior counsel Mr. S.S.

Dwivedi, appearing for the respondent Nos. 7 to 9 and the learned

A.C. to A.A.G.-5 for the State authorities, respondent Nos. 1 to 5.

2. This application under Article 226 of the Constitution of Indian has been filed by the petitioner against the order dated 24.08.2012 as contained in Annexure-5 and the notice pursuant to the said order issued to the petitioners in Mutation Case No. 01 of 2009-10. By the order, respondent No.3 has also called for a report from Anchal Adhikari to submit a report as to on what basis *Jamabandi* has been created without relevant documents.

3. From perusal of the order, It appears that the Additional Collector has admitted the application under Section 9 in following term;

“This petition for cancellation of Jamabandi is admitted

under Section 9 of the Bihar Mutation Act, 2011”. Section 9 of the Bihar Land Mutation Act, 2011 reads as follows;

“Cancellation of Jamabandi .

(1) The Additional Collector, either suo motu or on an application, shall have the power to make inquiries in respect of any Jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. The Additional Collector, in whose jurisdiction the land is situated, may, after giving reasonable opportunity to the parties concerned to appear, adduce evidence and be heard, cancel such Jamabandi, dispossess the person claiming under it and deliver the possession to the legitimate owner/custodian, on such terms as may appear to the Additional Collector to be fair and equitable.

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4. It appears that notice have already issued to the respondents. The respondents did not file any petition before the concerned Additional Collector.

5. The Hon'ble Supreme Court in the case of *Trade Tax Officer, Saharanpur Versus M/s. Royal Trading Co.* reported in *2005 (11) SCC 518* had held that it is well settled principle that against a mere issuance of show cause notice, High Court should be reluctant to interfere against the same. Adjudication proceeding must not be stalled in the manner done by the High Court by interfering with mere issuance of show cause notice. It is also settled principle that mere issuance of notice does not give cause of action for filing writ application under Article 226 of the Constitution of India as the authority is yet to decide and adjudicate upon the matter. The petitioner, therefore, if so advised, may file objection raising all the points, which are being raised before this Court before the Additional Collector.

6. So far the points raised herein are concerned, those are complicated question of fact as well as question of title. Therefore, I am not inclined to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

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