

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9521 of 2015

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1. Arbind Singh, son of Late Chhatradhari Singh, Resident of village and Post- Barauni Deorhi, Panchayat No.3, P.S. Teghra, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Planning and Development Department, Bihar, Patna.
2. The Collector, Begusarai.
3. The District Development Commissioner, Begusarai, District- Begusarai.
4. The District Planning Officer, Begusarai, District- Begusarai.
5. The Circle Officer, Teghra, P.O. Teghra, District- Begusarai.
6. The Executive Engineer, LAEOWD, 01, Begusarai, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Nath Tiwary
For the Respondent/s : Mr. Ajay- Ga12

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

8 18-03-2016 Heard Mr. Nawal Kishore Singh for the petitioner
and Mr. Ashok Kumar Keshari for the respondent State.

A counter affidavit is filed on behalf of the State. The petitioner has filed rejoinder thereto and a supplementary affidavit.

Claiming right, title and possession over the land set out in para 5, the writ application is filed to forbid the respondents from construction of community hall thereover under the Mukhya Mantri Kshetriya Vikash Yojana . Only a small part of the land is allegedly used by the respondent for such construction.



In the cadastral survey khatian the aforesaid land was recorded as Gairmajaruwa Malik land which was settled by the landlord with the petitioner or his ancestor. The land rent was paid to the ex-landlord. After vesting of intermediary rights jamabandi of the land was opened in the name of the petitioner and others and he is paying land rent to the State of Bihar. On 09.03.2015, the petitioner noticed some construction activities on 02 kathas of the land. It was later revealed that the respondents are constructing community hall from the fund allocated by the local MLA. Immediately thereafter representation was filed on 10.03.2015 before the respondent Circle Officer, Teghra and other authorities. The respondent-Collector took cognizance of the application and directed an enquiry by the District Planning Officer who, in his turn, directed the DCLR, Teghra to inquire into the matter and report. The respondent, however, continued with the construction of the community hall over the land of the petitioner. In these setting of facts, the writ petition was filed.

There is no qualm that during the pendency of the writ application, the construction of community hall is completed. Finding so, Mr. N.K. Singh, the counsel for the petitioner, has submitted that the petitioner shall be entitled to payment of reasonable compensation for use of his land by the



respondent without his consent and acquisition of land. By way of supplementary affidavit, he has placed on record, the relevant facts to demonstrate the present market value of the land of the petitioner . Annexure(s) 8 and 8/1 to the supplementary affidavit are the minimum value report of the land in the year 2011-15 and 2015-16 respectively.

Mr. Keshrai, on the other hand, submitted that the subject land was recorded as Gairmajaruwa Malik in the record of rights . There is no convincing material on record to hold that the petitioner or his ancestor was owner thereof. Although the subject land claimed to have been settled by the ex-landlord but no settlement document is produced . One Title Suit in respect of the subject land is pending consideration before the Civil Court. The counsel for the petitioner, on the other hand, submits, on the strength of information supplied to him by the revenue karmchari, that the Jamabandi of the land runs in the name of the petitioner who is paying land rent up-to 2014-15. The Title Suit relates to the partition of the land amongst the other co sharers (khewatdars). Relying on **2014(3) PLJR 584 (Maya Devi & Ors. vs. The State of Bihar & Ors.)**, it has been submitted that the petitioner is entitled to payment of compensation for the land used by the respondents to construct the community hall.



In **Maya Devi** (supra), this Court found the Jamabandi was created in favour of the petitioners several decades ago and the State was not rebutting continued possession of the petitioners thereover. The respondents intended to cancel the Jamabandi under the orders of the Revenue authority in order to deny compensation for the use of the land by the State to the petitioners. The same was found unjustified. Para-8 of the report states the legal position and is extracted hereunder:-

“8. We then come to the third stage. Who is to determine the validity of long standing Jamabandi created? It is not one of those cases where overnight people have turned up and some papers have been manufactured. Here, the petitioners undisputedly have been in possession for over 50 years. State, in its counter affidavit itself, agrees that Jamabandis were created long back but they point out two fallacies to challenge its correctness or authenticity. In my view, it is again well settled that where there are such disputes, which involve question of title, right of possession, especially when long standing possession is not disputed, then the only forum available to the State for cancellation of Jamabandi is resort to Civil Court and not in a summary proceeding by any revenue officer of the State.”

What we find in the present case is that in the CS khatian the subject land is entered as gairmajaruwa Mallik. The petitioners claim settlement thereof by the ex-landlord. When it



was so done and in what manner is not shown to the Court. An information supplied by the revenue officer is relied to contend that Jamabandi of the subject land was created in the name of the petitioners. When was it so done is again not known to the Court. If it has been done recently then surely a proceeding can be initiated as per the provisions of law to annul the Jamabandi as the long standing possession of the petitioners over the land is not admitted by the respondent State. On the other hand, what manifest from the record is that the respondents have already constructed a community hall over approximately two kathas of land without the consent of the petitioner or without taking any steps for its acquisition or getting the Jamabandi cancelled. The petitioner is recorded as tenant in the revenue records and is paying land rent with respect to the land. So long as the said status of the petitioner continues the respondents, in the light of the order of this Court in **Maya Devi** (supra), is obliged to pay fair/adequate compensation to the petitioner unless the Jamabandi created in the name of the petitioner or his ancestor is annulled /cancelled in accordance with law.

The writ application is disposed of by directing the respondent Collector to compute and pay fair/adequate compensation to the petitioner for utilizing his land for the

construction of public building. Such computation shall be made and paid in favour of the petitioner within two months from the date of receipt/production of a copy of this order before the respondent No.2 (the Collector , Begusarai). In case any step in the meanwhile is taken for annulment /cancellation of the Jamabandi in accordance with law, the time granted hereinabove, shall stand extended to four months.

The writ application is disposed of with the aforesaid observation/direction.

(Kishore Kumar Mandal, J)

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