

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12232 of 2005

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1. Dalit Singh son of Late Moti Singh,
 2. Raj Kumar Singh son of Late Moti Singh, both resident of Village: Korbasha, Birniya, P.S. Bounsi, District Banka.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Banka, District Bank.
3. The Addl. Collector Banka, District Banka.
4. The Land Reform Deputy Collector, Banka.
5. The Circle Officer, Bounsi, District Banka.
6. Sk. Smadh Ali son of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
7. Sk. Aligir son of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
8. Sk. Nosad Ali son of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
9. Sk. Najamuddin son of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
10. Gayas Ahamad son of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
11. Sk. Hamid Ali son of Sk. Sowarat Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
12. Kamruddin.
13. Sk. Samsad, both sons of Sk. Hamid Ali, resident of Village Bhurkuria, P.S. Bounsi, District- Banka.
14. Md. Daudh son of Abdul Khan, resident of Village Birniya, P.S. Bounsi, District- Banka.
15. Sk. Samsad son of Sk. Hamid , resident of Village Bhurkuria, P.S. Bounsi, District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.
Mr. Choudhary Prem Kr.Thakur, Adv.
For the Respondent Nop.1 to 5: Mr. H.S.Roy, AC to P.A.A.G.- I
For the Respondent No. 6 to 15: None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 25-07-2016

Heard the learned counsel appearing on behalf of the
petitioners and the learned State counsel appearing on behalf of the

respondent nos. 1 to 5. However, none appears on behalf of the respondent nos. 6 to 15, though notices were issued to them by order dated 08.02.2013.

The petitioners are aggrieved by the order dated 14.12.2004 passed in Jamabandi Creation Case No. 48 of 2001-02 by the District Collector, Banka, as contained in Annexure-4 to the writ petition, whereby the aforesaid case filed on behalf of the father of the petitioners has been dismissed by a non-speaking and cryptic order, and the order dated 10.8.2004 passed by the Additional Collector, Banka has been mechanically affirmed.

The learned counsel appearing on behalf of the petitioners submits that the respondent District Collector, being the final court of facts regarding creation of Jamabandi, ought to have decided the matter by a reasoned and speaking order. It is further submitted that reasonable opportunity of hearing was not given to the petitioners before passing the impugned final order dated 14.12.2004 (Annexure-4). He next submitted that the respondent District Collector, Banka while passing the impugned order, has not at all considered the case of the parties, yet he simply affirmed the order of the respondent Additional Collector, Banka.

The learned State counsel appearing on behalf of the respondent no. 1 to 5 has supported the impugned order and has submitted that if the petitioners are at all aggrieved by the impugned order, they have an alternative remedy before the civil court of competent jurisdiction for getting their right, title and possession declared over the lands in question. As noticed above, none is appearing on behalf of the private respondents despite service of notice upon them.

After having heard the parties, this Court is of the opinion



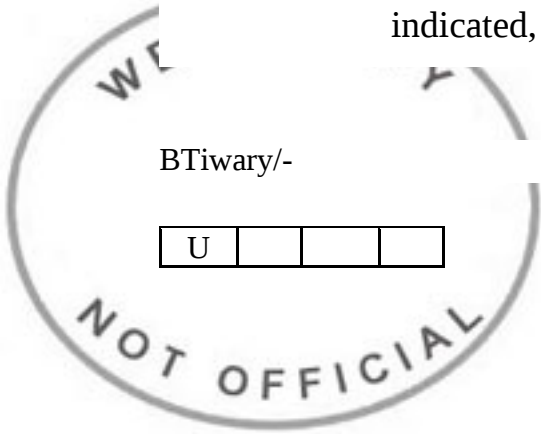
that the matter requires reconsideration and fresh decision by the respondent District Collector, Banka. Apparently, by the order dated 10.08.2004 (Annexure-A to counter affidavit) passed by the respondent Additional Collector, Banka, the claim raised by the father of the petitioners for creation of Jamabandi was not accepted, yet the matter was referred to the District Collector, Banka for passing appropriate final order. However, while passing the impugned order dated 14.012.2004, the respondent District Collector, Banka has not at all considered the case of the parties and by a cryptic and non-speaking order, he has affirmed the order of the respondent Additional Collector, Banka which cannot be sustained in law. In the considered opinion of this Court, the District Collector, Banka while passing the impugned order ought to have gone into the merits of the claims of the parties with respect to the lands in question and thereafter he could have either allowed the claim or could have rejected the claim of the father of the petitioner, but for that he ought to have recorded reasons, which has not been done in the present case.

For the reasons recorded above, the impugned order dated 14.12.2004 (Annexure-4) passed in Jamabandi Creation Case No. 48 of 2001-02 by the District Collector, Bank is hereby set aside and quashed, and the matter is remitted back to the respondent District Collector, Banka with a direction to decide the aforesaid case afresh, strictly in accordance with law on merits. However, before passing any final order, opportunity of hearing must be given to all concerned including the petitioners and the private respondent nos. 6 to 15, besides others, if any, who may raise their claim of their right, title and possession over the lands in question.

It is clarified that 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.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above.



(Birendra Prasad Verma, J)