

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.617 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 15643 of 2004

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1. Basudeo Yadav, Son of Late Mishri Mahato.
 2. Rameshwar Yadav, Son of Late Paro Mahto. Both resident of village - Balchore, P.S. - Chandramandi (Chakai), District - Jamui.

.... Appellant/s

Versus

1. The State of Bihar
2. The District Collector cum District Magistrate, District - Jamui.
3. The Additional District Magistrate, District - Jamui.
4. The Circle Officer (C.O.) Chakai, District - Jamui
5. Sitaram Mehra
6. Hardeo Mehra
7. Gyan Mehra All sons of Guhi Mehra resident of Village - Balkore, P.S. - Chandramandi (Chakai), District - Jamui.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Tuhin Shankar, Advocate.
For the Private Respondent : Mr. Nagendra Dubea, Advocate.
For the State : Mr. Sushant Praveer, AC to GP-12

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 16-11-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-Court appeal is to the order dated 19.06.2013 by which C.W.J.C. No. 15643 of 2004 filed by the appellants has been dismissed by the learned Single Bench.

3. *Jamabandi* was opened in favour of the appellants by the concerned Circle Officer in the year 1982-83 on the basis of *Hukumnama* executed in the month of *Vaishakh*, 1953 by the



Zamindar. Miscellaneous Case No. 4 of 1997-98 was filed by respondents no. 5 to 7 for cancellation of the said *Jamabandi* before the Additional Collector, Jamui. A report was called from the Circle Officer and enquiry was also conducted by the Additional Collector and by order dated 16.01.1998, the Miscellaneous case was dismissed and *Zamindari* in favour of the appellants was maintained. In case No. 6 of 1998-99, filed by the respondents no. 5 to 7 before the Collector, who, after calling for a report from the Circle Officer, cancelled the *Jamabandi* in favour of the appellants. Being aggrieved, the appellants preferred C.W.J.C. No. 15643 of 2004, which was dismissed by the learned Single Bench on 19.06.2013, giving rise to the present Letters Patent Appeal.

4. Learned counsel for the appellants submitted that the order of the Collector is beyond jurisdiction as the *Jamabandi* was created by the Circle Officer, Chakai. It was further submitted that on the basis of the spot enquiry and statement of the villagers, the appellants having been found in possession and *Jamabandi* created in their favour in the year 1982-83, any interference by the Collector is against law.

5. Learned counsel for the respondents submitted that the finding arrived at and reasons given in the order of the Collector, which was impugned in the writ petition, have not been denied by the appellants and, thus, the cancellation of *Jamabandi* in their favour



cannot be said to be unwarranted. It was submitted that in terms of the Bihar Land Reforms Act, 1950 relating to vesting of *Zamindari*, the ex-landlord had submitted his return, but with regard to the lands in question, though it was recorded as *Gairmazarua Malik*, the name of neither the appellants nor their forefathers were disclosed in the said return. Thus, all such lands vested with the Government, and the land in question also became Government land. It was submitted that the Government detected large scale illegal creation of *Jamabandi* in the year 1982-83 by the concerned lower Revenue officials and the present is also such a case. It is submitted that the so called *Hukumnama* in favour of the appellants cannot be relied upon since the same is not corroborated either by contemporaneous documents or by actual possession on the ground.

6. Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeal. The fact that the appellants themselves claimed to have got settlement from the ex-landlord (*Zamindar*) in the year 1953, and till 1982-83 them not making any application for opening of *Jamabandi* in their favour with regard to the said land, raises a major question mark, both on the authenticity of the *Hukumnama* as well as legality of such claim. The report of the Circle Officer, pursuant to the order of the Collector, clearly states that the land was recorded as *Gairmazarua Malik* and on spot verification it was found to be lying vacant (*parti*). These

facts have not been specifically denied by the appellants. In any view of the matter, the cause of action being of the year 1953 could not have been the basis, after almost 30 years, for filing an application for *Jamabandi* and further, non mentioning of the name of the appellants or their forefathers by the *Zamindar* in his return leads to the obvious conclusion that they had no connection with the land in question and the same stood vested in the State upon abolition of *Zamindari* and subsequent filing of return by the Zamindar. The perusal of the order of the Collector dated 27.05.2004 as well as the learned Single Bench dated 19.06.2013 shows proper consideration of the matter, both on facts as well as in law, which, in the opinion of the Court do not require any interference.

7. Accordingly, the Letters Patent Appeal stands dismissed.

(Ahsanuddin Amanullah, J)

Hemant Gupta, ACJ *I agree*

(Hemant Gupta, ACJ)

P. Kumar

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