

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3653 of 2015

=====

1. Brij Bihari Prasad, son of late Maheshwar Lal Sahu
2. Nawal Kishore Sahu, son of late Jagdish Narain Sahu
Both are residents of Mohalla-Maulaganj, Madarpur, P.S.-Laheriasarai,
District-Darbhangha.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Darbhanga.
3. The Additional Collector, Darbhanga.
4. The Deputy Collector, Land Reforms, Sadar, Darbhanga.
5. The Circle Officer, Darbhanga.
6. Dr. Bipin Kumar, son of late Maheshwar Lal Sahu
7. Binod Kumar, son of late Kameshwar Lal Sahu
Both residents of Mohalla-Maulaganj, Madarpur, P.S.-Laheriasarai,
District-Darbhangha.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Adv.
Mr.Dinesh Kumar, Adv.
Miss Annu Shree, Adv.

For the Respondent/s : None

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 09-01-2017 Heard the learned counsel appearing on behalf of the petitioners. However, none appears on behalf of the State of Bihar and its functionaries, though the name of the learned State counsel is printed in the daily cause list.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India with a prayer to quash the proceeding of Jamabandi Cancellation Case No.20 of 2014-15 initiated by the respondent Additional Collector, Darbhanga by an order dated 11.10.2014, as contained in Annexure-11, as also the consequential notices dated 24.11.2014, as contained in Annexure-12 series.

The learned counsel appearing on behalf of the petitioners submits that the Jamabandi Cancellation Case initiated



by the respondent Additional Collector, Darbhanga on the basis of the recommendation made by the Anchal Adhikari, Sadar Darbhanga is fit to be quashed on the ground that the several orders have been passed in favour of the petitioners with respect to the lands in question. However, he has not been able to dispute that the aforesaid matter is still pending before the respondent Additional Collector, Darbhanga.

From perusal of the order-sheet of Jamabandi Cancellation Case No.20 of 2014-15, as contained in Annexure-11, it is apparent that by an order dated 11.10.2014 notices have been issued to the petitioners, besides others, and, therefore, the consequential notices, as contained in Annexure-12 series, have been issued to them. In the factual matrices of the present case, this Court is of the opinion that all these issues of facts and law raised on behalf of the petitioners with respect to the lands in question can very well be raised before the respondent Additional Collector, Darbhanga.

Indisputably, under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011'), the Additional Collector is the prescribed authority for passing the order of cancellation of jamabandi. Therefore, the question of power/authority cannot be questioned by the petitioners at this stage. However, if the final order is passed by the respondent Additional Collector, Darbhanga in the aforesaid Jamabandi Cancellation Case, then the petitioners shall be at liberty to assail that final order before the appellate authority and then the revisional authority prescribed under the Act, 2011. Furthermore, the orders passed by the authorities under the provisions of the Act, 2011 can further be challenged before the learned Bihar Land



Tribunal, Patna under the provisions of the Bihar Land Tribunal Act, 2009. Therefore, in all fairness, the petitioners should first raise all the issues of fact and law before the prescribed original authority, where the matter is still pending. At this stage all the issues of facts and law raised by the petitioners in the present proceeding cannot be appropriately gone into.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to raise all the issues of facts and law before the respondent Additional Collector, Darbhanga in the aforesaid pending Jamabandi Cancellation Case No.20 of 2014-15 within a period of one month from today. However, before passing any final order, the respondent Additional Collector, Darbhanga shall give reasonable opportunity of hearing to all concerned including the petitioners, the respondent nos.6 and 7, and the others, if any, besides the respondent Circle Officer, Darbhanga, who has filed the petition for cancellation of jamabandi.

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, before the respondent Additional Collector, Darbhanga in the aforesaid pending Jamabandi Cancellation Case No.20 of 2014-15.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

U			
---	--	--	--

