

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14685 of 2017

Imteyaz Ahmad, Son of Late Mukhtar Ahmad, Resident of Village-Hathauri
Tola, Mahual, P.S. Hussainganj, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Land Development Department,
Govt. of Bihar, Patna.
2. The Commissioner, Saran Division at Chapra. District-Saran.
3. The Collector of the District-Siwan.
4. The Additional Collector, Siwan.
5. The Deputy Collector, Land Reforms, Siwan
6. The Anchal Adhikari, Hussainganj, District-Siwan
7. Parwez Ahmad, Son of Md. Asraf,
Resident of Village-Hathauri Tola Mahual, P.S. Hussainganj, District-Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr.Adv. Md. Anisur Rahman, Adv.
For the Respondent/s	:	Mr. SAJID SALIM KHAN - SC-25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 20-11-2017 Heard Mr. Rama Kant Sharma, learned Sr. Counsel
appearing on behalf of the petitioner and Mr. Sajid Salim Khan,
learned SC-25 appearing on behalf of the respondent-State as
well as Mr. Naresh Prasad, learned Counsel for respondent no.7.

The present Writ application has been filed for quashing of
the order dated 08.09.2017, passed in Jamabandi Cancellation
Revision No.84/2017, by the respondent no.2, the Divisional
Commissioner, Saran, as contained in Annexure-7, whereby,
prayer to stay the original order dated 08.03.2014, passed in
Jamabandi Cancellation Case No. 38 of 2013-14, passed by the
Additional Collector, Siwan, as well as the appellate order dated



30.05.2017, passed by the Collector, Siwan in Appeal No.40 of 2016-17, has been rejected.

The Interlocutory Application No. 8221 of 2017 has been filed with further prayer for quashing of Notice/Letter No. 1253, dated 14.10.2017, contained in Annexure-10 of the interlocutory application issued by the Circle Officer, Hussainganj, whereby, he has requested the Sub-Divisional Officer, Siwan to provide J.C.B. Machine, 20 male and female police personnel, as well as 10 armed forces for removing the encroachment on 30.10.2017, from the land appertaining to Thana No. 237, Khata No.147, Plot No.2127, 2332 Jamabandi No. 774, 771, situated in Village-Hathauri Tola Mahual, P.S.-Hussainganj, District-Siwan. Further prayer has also been made for quashing of the Order dated 16.10.2017, issued vide letter no.854 under the signature of Sub-Divisional Officer, Siwan, Sadar, as contained in Annexure-11 to the supplementary affidavit, whereby, the Magistrate as well as Police force along with armed forces were deployed for removal of the encroachment from the above-mentioned land.

It is submitted by learned Sr. Counsel for the petitioner that the land in question was settled with the father of the petitioner by virtue of order passed in Case No.23/88-89 and thereafter



Jamabandi No.774 was opened in the name of the father of the petitioner. Subsequently, the Jamabandi No.774 created in the name of the petitioner's father was cancelled vide order dated 08.03.2016, passed by the Additional Collector, as contained in Annexure-3 and the same has been affirmed by the Collector vide order dated 30.05.2017, passed in Jamabandi Appeal No.40 of 2016-17, as contained in Annexure-6. Against the said orders, the petitioner preferred Jamabandi Cancellation Revision No. 84 of 2017 before the Divisional Commissioner, Saran, which is still pending. In the meantime a petition was filed with a prayer to stay the operation of the order passed by the Additional Collector, as contained in Annexure-3, whereby, Jamabandi existing in the name of petitioner's father has been cancelled as well as the order dated 30.05.2017 passed by the Collector, Siwan in Jamabandi Appeal No.40 of 2016-17, but the same has been rejected vide order dated 08.09.2017, as contained in Annexure-7. Hence, the petitioner is apprehending ejectment from the land in question. It is further submitted that mechanical approach of the Circle Officer gets reflected from Notice/Order, as contained in Annexures 10 and 11, of the Interlocutory Application, which does not bear any encroachment case number. However, purport of the notice suggests that it has been



issued under Section 6(2) of the Bihar Public Land Encroachment Act but not in Form-II.

Learned SC-25 appearing on behalf of the respondent-State submits that in view of the fact that Jamabandi of the petitioner has been cancelled and the same was affirmed by the Collector in Appeal and now the revision is pending, hence the petitioner cannot claim his right over the land in question.

Learned Counsel appearing on behalf of respondent no.7 submits that notices have been issued, as contained in Annexures- 10 and 11 of the Interlocutory Application, in pursuance to an encroachment proceeding, but both the notices do not bear any encroachment case number.

Considering the rival submissions of the parties, since it is an admitted position that the notices for removal of the encroachment also relates to the land for which Jamabandi Revision of the petitioner is pending before the Divisional Commissioner, it is expected from the Divisional Commissioner, Siwan, to dispose of the Revision of the petitioner within a period of three weeks from the date of receipt/production of a copy of this order.

Till then *status quo* with regard to the land in question appertaining to Thana No. 237, Khata No.147, Plot No.2127,



2332 Jamabandi No. 774, 771, situated in Village-Hathauri Tola Mahual, P.S.-Hussainganj, District-Siwan, shall be maintained. Further, operation of Letter No. 1253 dated 14.10.2017 and order dated 16.10.2017 contained in Memo No. 854 is also stayed till then.

Accordingly, the Writ application as well as the Interlocutory Application are disposed of.

However, the petitioner would be at liberty to challenge the notices as contained in Annexure-10 and 11 of the Interlocutory Application in a separate proceeding.

(Dinesh Kumar Singh, J)

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