

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7216 of 2018

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Sudhir Kumar @ Sudhir Kumar Yadav son of Late Jangli Prasad Yadav @ Jangli Yadav Resident of Mohalla - Jai Prakash Nagar, Ward No. - 21 (Khagaria), P.S.Khagaria, District Khagaria.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Collector, Khagaria.
3. The Addl. Collector, Khagaria.
4. Deputy Collector, Land Reforms, Khagaria.
5. Circle Officer, Khagaria, District Khagaria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Dronacharya
For the Respondent/s : Mr. Sajid Salim Khan-Sc25

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 10-09-2018

Heard Mr. Dronacharya, the learned counsel appearing on behalf of the petitioner and the learned counsel for the State.

2. The petitioner filed this writ petition against the notice dated 13.03.2018 issued by the Additional Collector, Khagaria in Jamabandi Cancellation Case No.59 of 2016 calling upon the petitioner to show cause why the *Jamabandi* standing in the name of the petitioner should not be cancelled.

3. The facts relevant for the disposal of this writ petition is that the lands of Plot No.214, Khata No.294 stands in the name of Ram Niwas Marwari. Kapoorni Devi, the mother of the petitioner purchased the land on 23.07.1976 through a registered sale deed and the name of the mother of the petitioner was mutated



but the Circle Officer reported the Additional Collector that the nature of the land was *partikadim* standing in the name of the landlord who illegally settled the land in favour of Ram Niwas Marwari and on such report notice was issued to the petitioner.

4. Mr. Dronacharya, the learned counsel for the petitioner submits that the Mutation Act, 2011 came into force in the year 2011 and Section 9 of the Mutation Act vests power in the Additional Collector to cancel any *Jamabandi* standing in the name of a person if *Jamabandi* is obtained against any law or against any circular issued by the State of Bihar from time to time but no such condition is fulfilled for issuance of notice for cancellation of *Jamabandi*. It is further submitted that the issuance of notice itself is without jurisdiction and this Court in extraordinary jurisdiction has get power to issue any nature of writ to quash such notice which appears on the face of it to be harassing in nature. It is further submitted that in the similar case, the Division Bench of this Court in the case of *Maya Devi & Ors. vs. The State of Bihar & Ors.*, reported in 2014 (3) PLJR 584 and in the case of *Mohan Singh vs. State of Bihar*, reported in 2015 (1) PLJR 608 has held that the notice is bad and liable to be quashed but I find that the petitioner has already appeared before the Additional Collector in pursuance of the notice issued for



cancellation of *Jamabandi*. Once the petitioner submitted before the authority, it is advisable and appropriate that the petitioner may file show-cause that the *Jamabandi* standing in his name does not require to be cancelled and the same is standing for more than 40 years in the name of the petitioner and also cite the judgments before the authority precluding the authority from exercising such colorful exercise of power.

5. In this view of the facts, I dispose of this writ petition with a direction to the petitioner to file show-cause and on such the Additional Collector shall dispose of Jamabandi Cancellation Case No.59 of 2016 within four months from the date of receipt of this order. It goes without saying that during the pendency of *Jamabandi* Cancellation Case No.59 of 2016, the possession of the petitioner shall not be disturbed in the garb of cancellation of *Jamabandi*.

6. With the aforesaid observation, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2018
Transmission Date	NA

