

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17745 of 2011

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1. Smt.Shail Devi W/o Shri Nawdip Rai Resident of Village-Rampur Shyam Chand, P.S.Raghopur, District- Vaishali, At Present residing at Mohalla- Mainpura, P.O. & P.S. Danapur, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Department Of Revenue, Govt. Of Bihar, New Secretariat, Patna
2. The State of Bihar through the Secretary, Department of Revenue, Govt. of Bihar, New Secretariat, Patna.
3. The Collector, Patna
4. The Collector, Patna
5. The Additional Collector, Land Reforms Department, Patna.
6. The Additonal Collector, Land Reforms Department, Patna
7. The Senior Deputy Collector, Patna
8. The Senior Deputy Collector, Patna.
9. The S.D.O. Danapur.
10. The S.D.O., Danapur
11. The Anchaladhikari, Danapur
12. The Anchaladhikari , Danapur, Patna.
13. Smt. Sita Devi W/o Sri. Sri Girdhari Sah R/o Mohalla- Mainpura, P.O. G.P.O., P.S. Patliputra, Distt- Patna.
14. Smt. Lilawati Devi W/o Sri Hiralal Sah R/o Mohalla- Mainpura, P.O. G.P.O., P.S. Patliputra, Distt- Patna.
15. Jairam Sah@ Jairam Sao
16. Sri Ram Sah @ Sri Ram Sao Both Sons of late Chandradeep Sao R/o Village- Mobarakpur, P.O. & P.S. Danapur, Distt- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. HARISH KUMAR

For the Respondent/s : Mr. MADHURESH PRASAD GP12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 06-03-2018

The petitioner in this writ petition seeks quashing of the order dated 28.12.1992 as contained in Annexure-7 passed by the Deputy Collector, Land Reforms, by which the Deputy Collector, Land Reforms, Danapur has cancelled the *Jamabandi* standing in the



name of the petitioner with regard to lands of Plot No. 1003, Khata No. 159 Area 16 decimals.

The case of the petitioner is that the land of Khata No. 159 Plot No. 1003 Area 16 decimals was mutated in her name vide order dated 27.12.1983 passed in Demarcation Case No. 91 of 1982-83. The aforesaid land was settled by the ex-landlord in favour of the grandfather of the petitioner on 14.10.1941 and subsequently after vesting of estates, the name of the petitioner was mutated. A miscellaneous proceeding was initiated vide Misc. Case No. 10 of 1992-93. The Circle Officer, Danapur reported that the land of Khata No. 159 Khesra No. 1003 Area 16 decimals is recorded as Gairmazarua Aam (Ditch) and it has wrongly been mutated in the name of the petitioner. On such report, the Deputy Collector, Land Reforms, Danapur vide order dated 28.12.1992 cancelled the *Jamabandi* of the aforesaid land standing in the name of the petitioner.

Learned counsel for the petitioner submits that the Deputy Collector, Land Reforms has got no jurisdiction to cancel the *Jamabandi* standing in the name of the petitioner. Under Section 16 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973, the Collector has got power either on an application on behalf of any person or on his own after hearing the parties to cancel the



Jamabandi. Before enactment of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973, keeping of records and substitution of names of any person by way of transfer, inheritance, gift was dealt with by different circulars of the State of Bihar, even if the vesting of estates. The Circle Officer was authorized to get the name of a person mutated, but no circular authorized the Deputy Collector, Land Reforms to cancel the mutation standing in the name of any person.

Mr. Madanjeet Singh, G.P.-20 for the State has very fairly submitted that under Bihar Tenants Holdings (Maintenance of Records) Act, 1973, no power is vested under D.C.L.R. to cancel the *Jamabandi* standing in the name of a person. Section 9 of Bihar Land Mutation Act, 2011 provides that the Additional Collector, either *suo motu* or on an application, shall have the power to make enquiries in respect of any *Jamabandi*, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf and the Additional Collector, in whose jurisdiction the land is situated, may, after providing reasonable opportunity to the parties concerned to appear, adduce evidence and after hearing cancel such *Jamabandi*.

Having heard the submissions of both sides and on perusal of the Bihar Tenants Holding (Maintenance of records) Act, 1973 and



any other circulars issued prior to the enactment of the aforesaid Act, it appears that the DCLR is not at all authorized to cancel the *Jamabandi* standing in the name of any person.

Thus, the order dated 28.12.1992 as contained in Annexure-7 passed by the DCLR, Danapur is without jurisdiction and not sustainable. Accordingly, the same is set aside and the Writ Petition is allowed.

(Prabhat Kumar Jha, J.)

Rakhi

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	20.03.2018
Transmission Date	

