

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2568 of 2016

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1. Masudan Prasad son of Late Darsan Mahto, resident of Village- Mora,
P.S. Chhabilapuir, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Additional Collector-Cum Additional District Magistrate, Nalanda.
3. Deputy Collector, Land Reforms, Nalanda.
4. Anchal Adhikari, Rajgir, District- Nalanda.
5. Circle Inspector, Anchal Office, Rajgir, District- Nalanda.
6. Satyendra Prasad
7. Surendra Prasad
8. Subhash Kumar, Respondent Nos. 6 to 8 Sons of Late Baso Mahto @
Basudeo Mahto.
9. Pannalal Sao, son of Late Raghunath Sao
10. Awadhesh Prasad, Son of Late Munshi Mahto
11. Sukan Mahto, Son of Late Devnarayan Mahto
12. Tetari Devi, Wife of Ramchandra Paswan.
13. Uday Chand Sao, son of Sitaram Sao All resident of Village- Nekpur,
P.O- Nekpur, P.S.- Chhabilapur, District- Nalanda.
14. Anil Kumar, Son of Ramawtar
15. Ramdhani Gope, son of Amul Gope
16. Balvir Yadav, son of Ramdhani Yadav All resident of Village- Kubari,
P.O- Nekpur, P.S.- Chhabilapur, District- Nalanda.
17. Pradip Sao, Son of Parshuram Sao
18. Madhusudan Kumar, son of Vijay Prasad
19. Binda Chaudhary, son of Munna Chaudhary
20. Dukhi Mahto, son of Bichhu Mahto
21. Rambilas Chaudhary, Son of Baiju Chaudhary
22. Jagdish Pandit
23. Munni Pandit
24. Dharmendra Pandit No.22 to 24 sons of Late Baleshwar Pandit
25. Ashok Prasad
26. Chirmani Prasad Respondent nos. 25 and 26 sons of Milchand Mahto
All resident of Village- Nekpur, P.O- Nekpur, P.S.- Chhabilapur, District-
Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Prasad Singh

For the Respondent/s : Mr. Kumar Priya Ranjan- SC23

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 09-07-2018

Heard both sides.



The petitioner has filed this writ petition for quashing the Jamabandi standing in the name of 16 persons, fully described in paragraph 10 of the writ petition. The petitioner further seeks relief for a direction to restore the Jamabandi of the land in question in the name of real owner.

The learned counsel for the petitioner submits that the land of Khata No. 149 and 150, total area 5.50 acre, is situated in village Nekpur, P.S. Chhabilapur, district Nalanda and the same was recorded in the name of Sukan Mahto in survey khatian. Neither Sukan Mahto nor his heirs transferred any land in the name of any person. The petitioner is grand son of Sukan Mahto. When the petitioner came to know about the land belonging to his grand father he sought information about the land and found that the Anchal Adhikari has illegally opened Jamabandi of the land in question in the name of 16 persons without any documents. It is submitted that in this view of the fact the Jamabandi opened in the name of 16 persons be cancelled and the Circle Officer be directed to open Jamabandi in the name of petitioner.

Respondent Nos. 1 to 4 have filed counter affidavit. The learned counsel for the State submits that the disputed land of Khata No. 149 and 150 measuring 5.50 acre is recorded in the name of Sukan Mahto but Sukan Mahto was not residing in his parental house and the entire land was in physical possession of the private respondents. The revenue records shows that the private respondents got the rent receipts of the land from the year 1934 to 1994 and the same was issued in the name of Khemajit Mahto and from the year 2005 to 2013-14 in the name of Vasudeo Prasad, father of private respondent Nos. 6 to 8. The land was found in possession of private respondents much before vesting of



estate whereas the petitioner claimed the land in the year 2013. The petitioner filed Land Dispute Case No. 88 of 2013 in the court of Deputy Collector, Land Reforms, Nalanda. The Deputy Collector, Land Reforms, Nalanda disposed of the case holding that there is a disputed question of title and the same cannot be decided in the Land Dispute Redressal Act and the question of title can be decided by a competent civil court. The petitioner again filed Jamabandi Cancellation Case No. 09/2014-15 in the court of Additional Collector concealing the order passed in Land Dispute Case No. 88 of 2013. The Additional Collector after hearing both sides dismissed the Jamabandi Cancellation Case No. 09/2014-15 by the order as contained in memo No. 522 dated 13.02.2015 and held that the dispute does not relate with the cancellation of Jamabandi rather the dispute is with regard to declaration of title, therefore, it is submitted that this writ petition has got no merit.

Having considered the submission of both sides and on perusal of records, I find that this court under writ jurisdiction cannot cancel the Jamabandi issued in the name of private respondents and direct the Circle Officer to open Jamabandi in the name of petitioner. According to Bihar Mutation Act, 2011 the Circle Officer is the competent authority to open Jamabandi in the name of a person on the basis of transfer or inheritance. The disputed land stands in the name of private respondents before vesting of estate and they were paying rent. The petitioner filed Land Dispute Case No. 88 of 2013 before the DCLR under the Land Dispute Redressal Act but the DCLR dismissed the petition holding that claim of the petitioner cannot be decided under the Land Dispute Redressal Act as the same involves the question of declaration of title. The petitioner again filed Jamabandi



Cancellation Case No. 09/2014-15 before the Additional Collector and the Additional Collector also rejected the prayer of petitioner for cancellation of Jamabandi standing in the name of private respondents and held that the dispute relates with declaration of right and title of the petitioner and it is not a fact that Jamabandi was opened in the name of private respondents illegally or against any law. There is provision of appeal against the order passed by Additional Collector in Jamabandi Cancellation Case but the petitioner has not exhausted that remedy and concealing all these facts in the writ petition, petitioner filed this writ petition.

Taking into consideration the facts aforesaid, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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