

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.22259 of 2019**

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Kusum Gope @ Kusum Yadav S/o Faujdar Gope, Faujdar Yadav Vill.-  
Rampatti Tople, Siriganj, P.s.- Raj Nagar, Distt.- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Department of Land and Revenue Reforms, Bihar, Patna
2. The Divisional Commissioner Darbhanga Division, Darbhanga
3. The Collector cum District Magistrate Madhubani
4. The Additional Collector Madhubani
5. The Deputy Collector Land Reforms, Sadar, Madhubani
6. The Circle Officer Raj Nagar, Distt.- Madhubani
7. The Officer Incharge Raj nagar Police Station, Madhubani
8. Ram Babu Yadav S/o Sri Baldeo Yadav Vill. and p.o.- Rampatti Tole, Sriganj, P.s.- Raj nagar, Distt.- Madhubani

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Ratanakar Jha

For the Respondent/s : Mr.Subash Chandra Yadav (Gp15)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

2      15-11-2019                      Heard learned counsel for the petitioner and learned  
counsel for the State.

2. The petitioner filed this writ petition for quashing  
the notice no.202 dated 28.08.2019 in Jamabandi Cancellation  
Case No.21/2019-20 calling upon the petitioner to show-cause  
as to why Jamabandi No.7 standing in the name of petitioner be  
not cancelled and to maintain status quo.

3. Learned counsel for the petitioner submits that the  
land of Khesra No.692 measuring 3 katha 13 dhurs is situated in



village Rampatti, P.S. -Raj Nagar, District – Madhubani. Out of which, 2 katha 10 dhurs land was settled in favour of the petitioner by the ex-landlord on 05.04.1934 and Jamabandi return was filed in favour of the petitioner. Jamabandi No.7 was created in favour of the petitioner, which is apparent from reply given by the Circle Officer, Raj Nagar on 20.03.2001 sought for under RTI Act. It is further submitted that Khesra Nos.730 and 732 of Khata No.1440 were carved out from old Khesra No.692 Khata No.429 and petitioner is in peaceful possession. The land was wrongly recorded in the name of State of Bihar. The petitioner filed Title Suit No.59 of 2000 in the Court of Settlement Officer, Madhubani for deleting the name of State of Bihar under Section 106 of the Bihar Tenancy Act. The notice was issued to the Circle Officer and by order dated 26.03.2003 the land was found in possession of the petitioner. It is further submitted that CWJC No.13694 of 2014 was filed by private respondent for removal of encroachment from Khesra No.692. The petitioner appeared. A Division Bench of this court by order dated 09.01.2015 directed the respondents to remove the encroachment. Again the case was listed for hearing and the State (respondent) on the basis of assertions made in the counter affidavit stated that the petitioner and the private respondent



have encroached upon the land, and accordingly, CWJC No.13694 of 2014 was disposed of on 23.03.2015. Thereafter the petitioner again filed Civil Review No.81 of 2015 for review of both the orders dated 09.01.2015 and 23.03.2015 passed in CWJC No.13694 of 2014. The review petition was disposed of by order dated 16.12.2016 and para 2 of order dated 23.03.2015 was substituted to the extent that “encroachment has been removed”. It is further submitted that thereafter the Additional Collector without perusing the order passed in Civil Review No.81 of 2015, issued notice to the petitioner for cancellation of Jamabandi No.7 standing in the name of petitioner. The order itself is illegal as the petitioner filed Title Suit No.59 of 2000 and it has been declared that the petitioner is the owner of the land in question and, therefore, notice is illegal and fit to be quashed.

4. Having considered the submissions of both sides and on perusal of record, it appears that CWJC No.13694 of 2014 was filed for removal of encroachment on the public road and the State authority (respondent) in pursuance of order passed in CWJC No.13694 of 2014 removed the encroachment from the public road. The petitioner filed civil review petition to review the orders dated 09.01.2015 and 23.03.2015 passed in



CWJC No.13694 of 2014. After hearing both sides, it was found that the second paragraph of order dated 23.03.2015 passed in CWJC No.13694 of 2014 is ordered to be substituted in the following manner :-

“A counter affidavit dated 17<sup>th</sup> of March, 2015 on behalf of respondent nos.4 and 5 has been filed that encroachment has been removed. The said report is Annexure I”.

5. From perusal of para 5 of the review order, it appears that the report of the State (respondent) is that there is encroachment on land measuring 2 katha 10 dhurs situated in Khata No.429, Khesra No.692 which has been removed but not that the encroachment from the land in question of the petitioner has been removed. There is no assertion that possession has been taken from the writ petitioner or the present petitioner. On such the order was reviewed. Now the authority considered the factual aspect and found that originally the land was recorded as Gairmajarua Aam Rasta and Jamabandi was wrongly created in the name of the petitioner. Accordingly, on such, the Additional Collector issued notice under Section 9(1) of the Bihar Mutation Act and called upon the petitioner to show-cause as to why Jamabandi No.7 with regard to Khata No.429, Khesra No.692, Area 2 katha 10 dhurs be not cancelled as the same was opened in contravention of the circular issued by the State of Bihar with



regard to the settlement of land and opening of Jamabandi. The notice itself speaks about application of mind on the part of Additional Collector and, therefore, I find that the notice does not require any interference. The petitioner may file show-cause claiming the land to be his own on the basis of settlement made by the ex-landlord and on such the Additional Collector shall pass final order in accordance with law.

6. Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the same is dismissed.

**(Prabhat Kumar Jha, J)**

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