

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21719 of 2019

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Jay Kumar, Aged about 50 years, Male, Son of Late Nageshwar Sharma, Permanent Resident of Village Bali Pakar, P.O. Mahua, P.S. Paliganj, District Patna, at present Resident of House No. 418, Road No. 21/E, Behind Veena Vidya Niketan, P.S. Phulwari, District Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue Land Reforms, Government of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
5. The District Magistrate, Patna, District- Patna.
6. The Additional Collector (Land Reforms) District- Patna.
7. The District Panchayat Officer, District- Patna.
8. The Deputy Development Commissioner, District- Patna.
9. The Sub-Divisional Officer, Danapur, District- Patna.
10. The Deputy Collector, Land Reforms, Danapur, District- Patna.
11. The Block Development Officer, Paliganj Block, District- Patna.
12. The Circle Officer, Paliganj Block, District- Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Satish Chandra Mishra
For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-11-2019 Heard both sides.

The petitioner prays for issuance of an appropriate writ in the nature of mandamus directing the respondents to remove the unauthorized and illegal *pucca* road constructed in raiyati land of the petitioner bearing Plot No.1142, measuring 7 acres 2 decimals



and Survey Plot No.1161, measuring 2 acres 81 decimals recorded as Gair Mazarua Malik land under Khata No.89 situated in village Bali Pakar, P.S. Paliganj.

Learned counsel for the petitioner submits that Sri Ashok Kumar, Ex-Service Man of Air Force, Sri Sudhir Kumar, Ex-Army Man, SAP at Motihari and the petitioner himself own the land. The land in question was owned by ex-landlord Sri Shiv Nandan Prasad Singh who died leaving behind his sons, namely, Ram Nandan Prasad Narain Singh and Shyam Nandan Prasad Narain Singh. The lands of Khata No.89 remained uncultivated and the nature of the land was Gair Mazarua Malik. The name of the ex-landlord was recorded in Register-D of the said Tauzi. After the death of Babu Sheo Nandan Prasad Narain Singh in the year 1939-40, Babu Ram Nandan Prasad Narain Singh and Babu Shyam Nandan Prasad Narain Singh both jointly settled Plot No.1142 area 6 acres 20 decimals and Plot No.1161 area 2 acres 81 decimals by a registered deed of Mokari on rent with late Babu Rakatu Singh, Son of Late Babu Ram Sahay Singh and Babu Raghu Nath Pandey. They started cultivating the lands and the nature of the land changed and became cultivable raiyati land but some persons of Gram Samiti started constructing huts over the land in the year 1996 and a proceeding under Section 144 Cr.P.C. vide Case No.503M/96 was initiated. Later on the case was



disposed of in favour of the petitioner. The DCLR, Danapur initiated Misc. Case No.18/1997-98 against Narsing Narain Singh and others including the petitioner and his brothers for cancellation of Jamabandi standing in their name. The petitioner and others appeared and filed show cause. By order dated 04.12.1997, the Jamabandi standing in the name of the petitioner and others was cancelled. The petitioner filed CWJC No.1053 of 1990 and this Court dismissed the writ petition with observation that the petitioner may resort to alternative remedy before the revenue authority. The petitioner filed Title Suit No.90 of 1998. It is submitted that the authorities have constructed PCC road on the land of the petitioner and the authorities be directed to remove the same.

Having considered the submissions of the learned counsel for the petitioner and on perusal of the record, it appears that originally the land in question was recorded as Gair Mazarua Malik but later on the Jamabandi was created in the name of the petitioner. The DCLR by order passed in Misc. Case No.18/1997-98 cancelled the Jamabandi standing in the name of the petitioner on the ground that the nature of the land is Gair Mazarua Malik and the record of rights was illegally prepared in the name of the petitioner violating the circular and laws of the Government of Bihar. The petitioner also filed CWJC No.1053 of 1990 in this



Court against that order which was dismissed. It further transpires that the petitioner has already moved before the authority against the order cancelling Jamabandi standing in the name of the petitioner and the same is pending before the competent revenue authority. After cancellation of Jamabandi, the title of the petitioner over the land is doubtful. The claim of the petitioner on the basis of the entry made in the record of rights is not sustainable at this stage because Jamabandi standing in the name of the petitioner has already been cancelled. The nature of land is Gair Mazarua Malik and owner of the land is State of Bihar, therefore, in writ jurisdiction unless admittedly the petitioner is found to be owner of the land, no direction can be issued to the respondents to remove PCC road existing on the disputed land.

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

(Prabhat Kumar Jha, J)

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