

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23396 of 2019

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Sardar Haribansh Singh, Son of Sardar Vishnu Singh, Resident of Saharghat, Sahar, Ward No. 6, Sardar Chowk, Saharghat Sahar, Police Station- Saharghat, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department, Government of Bihar, Patna.
2. The District Magistrate/Collector Madhubani.
3. The Additional Collector, Madhubani.
4. The Anchal Adhikari, Madhwapur, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhas Ranjan, Advocate
For the State : Mr. Rishi Raj Sinha, SC 19

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 28-11-2019

Heard learned counsel for the petitioner and learned SC

19 for the State.

2. The petitioner has moved the Court for the following reliefs:

“(A) A Certiorary for setting aside the order/notice dated 12.09.2019 (Annexure-2) passed by the Additional Collector, Madhubani (respondent no. 3) in Jamabandi Cancellation Case No. 24/2019-20 whereby proposal has been sent by the Anchal Adhikari, Madhwapur for cancellation of Jamabandi and petitioner has been directed to appear on 27.09.2019.

(B) Any other relief or reliefs for which petitioner may be found entitled to in the facts and



circumstances of the present case may be granted to him.”

3. The challenge is to the notice issued under Section 9(1) of the Bihar Land Mutation Act, 2011 (hereinafter referred to as the ‘Act’) calling upon the petitioner as to why *jamabandi* created in his favour be not cancelled as the land in question is Government land.

4. Learned counsel for the petitioner submitted that Section 9 (1) of the Act clearly stipulates that the authority has to give reasonable opportunity to the parties concerned as to why the *jamabandi*, which has been created in violation of any law for the time being in force or any contravention of executive instructions issued in that behalf be not cancelled. It was submitted that in the present case, no details have been given with regard to the law which is alleged to have been violated or any executive instruction which has been contravened while opening of *jamabandi* in the name of the petitioner. It was submitted that the mutation was allowed on the basis of sale deed of the year 1971 in favour of the petitioner and that the authority i.e., the Additional Collector was obliged to give details of any contravention which has not been done. It was, thus, submitted that the notice itself is bad and requires to be set aside. For such proposition, he referred and relied upon a decision of co-ordinate Bench of this Court in



Richesh Anand vs. State of Bihar, reported as **2019 (3) PLJR 624**, the relevant being at paragraph no. 10.

5. Learned SC 19, in opposition, submitted that the writ application is misconceived. It was submitted that the order impugned is merely a notice calling upon the petitioner to show cause with regard to the *jamabandi* created in his favour relating to Government land. It was submitted that the reason is, thus, in the notice itself, inasmuch as, it has been indicated that the land is Government land being *gairmajarua* appertaining to the pond. It was submitted that in **Richesh Anand** (supra), the fact was that merely on the basis of the report of the Sub-Divisional Officer, a notice was sent which the Court found to be not in conformity with the requirement of Section 9(1) of the Act.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned counsel for the State. Bare perusal of the impugned notice discloses that the reason is mentioned that the land was Government land being a pond and its appertaining land, of which *jamabandi* could not have been created in favour of the petitioner. Thus, disclosure of such fact in the notice itself, in the considered opinion of the Court, is disclosing of sufficient reason for issuance of notice. Once such



fact has been disclosed it is open to the petitioner to meet the objection by filing his reply along with supporting documents rebutting the stand taken by the authorities relating to his land being Government land. Thus, neither there is any infraction/contravention of any law much less, the provisions of Section 9 (1) of the Act and further no prejudice is caused to the petitioner as he is aware of the reason why such notice has been issued which has been disclosed in the notice itself and he shall have full opportunity to present his case before the authority to show that for the land in his possession *jamabandi* has been created in his favour and it belonged to his vendor and was not Government land. Moreover, the Court finds that in **Richesh Anand** (supra), the fact was different, as merely on the basis of a report of the Sub Divisional Officer, a notice was issued, whereas in the present case the notice specifically discloses that the land is pond and its appertaining land and being Government land was wrongly mutated in favour of the petitioner.

7. For reasons aforesaid, the application stands dismissed.

8. However, for the ends of justice as the time fixed under the impugned notice dated 27.09.2019 has already elapsed, if within two weeks from today, the petitioner files his objection in



terms of the notice dated 12.09.2019, the authorities shall take matters to their logical conclusion, in accordance with law, after giving opportunity of hearing to the petitioner, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

Ranjeet/-Ravi
Shankar

AFR/NAFR	
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