

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2102 of 2020

1. Satyendra Narayan Singh, aged about 63 years, Gender Male,
2. Jay Kumar Singh, aged about 57 years, Gender Male,
3. Vijoy Kumar Singh, aged about 47 years, Gender Male, all are Son of late Ram Pravesh Singh, Resident of Village- Bhore, P.S.-Manpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna.
2. District Magistrate, Gaya.
3. Land Reform Dy-Collector, Gaya.
4. Circle Officer, Bodh Gaya.
5. Setnath Pathak, Son of late Ramji Pathak, Resident of Village Chandrapura, P.S. Brahampur, District- Arrah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amarnath Singh, Advocate
		Mr. Bibhuti Narayan, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC 25

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 14-02-2020

Heard learned counsel for the petitioners and learned
SC 25 for the State.

2. The petitioners have moved the Court for the
following reliefs:

- a) *For quashing the mutation correction slip and Jamabandi Order dated 26.4.14 issued by respondent no. 4 whereby and where under Jamabandi no.164/44 has been opened in the name of respondent no. 5 in mutation case no.5084/13-14 appertaining to land in*



question situated in Mouza Bodhgaya Thana No.662 Plot No.1770, Khata No.662, Area 2.05 acre and order of mutation has been granted in favour of respondent no. 5.

- b) For giving a direction to respondent no. 2 to make in enquiry regarding the authenticity of the order and judgment of B.T. Act Case No.5545/19 and of other documents relied upon by the respondent no. 4 while opening Jamabandi No.164/44 in the name of respondent no. 5*
- c) For grant of status quo of the land in question for making any transfer or sale till disposal of the writ petition.*
- d) Any other relief/reliefs which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

3. Basically, the petitioners are aggrieved with creation of *jamabandi* in favour of the respondent no. 5 on the ground that their ancestors were the settlees from the erstwhile landlord prior to vesting of *zamindari* and they have continued in possession over the land. It is further their case that in the recent survey, as the name of the ex-landlord was shown in the column of *raiyat*, they had filed Title Suit No.2733 of 1981, in which judgment in their favour was passed on 11.12.1984 and the *kathiyani* was corrected. It was submitted that thereafter, due to death in the family, the petitioners could move before the revenue authorities only in the year 2011 for creating *jamabandi* in their favour which proceeding is still pending. It is their further case that respondent no. 5 claiming to be a later settlee



also filed an application before the authorities in the year 1999 in which by order dated 07.07.2000, it was held that his name be shown in the revenue records in the *Khatiyar* in place of the ex-landlord. Based on the same the respondent no. 5 moved before the Circle Officer, Bodh Gaya, for creation of *jamabandi* in his favour which has been allowed.

4. Learned counsel for the petitioners submitted that in view of the materials and evidence admissible in law being available in favour of the petitioners, the respondent no.5 has illegally managed to get *jamabandi* in his favour and none of the authorities have considered the case of the petitioners. It was further submitted that the petitioners should have at least one forum where they can demonstrate that the land rightfully belonged to them.

5. Learned counsel for the State pointed out that in the Bihar Land Mutation Act, 2011, (hereinafter referred to as the 'Act'), there is appeal provided under Section 7.

6. Learned counsel for the petitioners submitted that the appeal has to be filed within thirty days and though the Land Reforms Deputy Collector before whom it is to be filed may condone the delay, but they are apprehensive that because of the long delay, which is not attributable to any deliberate or willful



laches or fault on the part of the petitioners, the appeal may not be heard on merits. However, he was not against the matter being considered by the appellate authority.

7. Having regard to the aforesaid, the Court finds substance in the contention of learned counsel for the petitioners that at least before one forum, the facts have to be thrashed out in presence of both the petitioners and the respondent no. 5 as they are the only rival claimants to the land in question, which does not appear to have been done, as either the petitioners or the respondent no. 5 in separate and independent proceedings have got orders in their favour.

8. Accordingly, the writ petition stands disposed off with liberty to the petitioners to move in appeal under Section 7 of the Act before the Land Reforms Deputy Collector. If the same is done within four weeks from today, the matter shall be heard and disposed off on merits after giving due opportunity to all concerned including respondent no. 5.

9. It goes without saying that the appellate authority shall be obliged to consider all facts and materials produced before it by the parties and shall pass a reasoned order in accordance with law thereafter. The proceedings should be concluded within four months from the date of filing of such



appeal before the authority concerned.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	

