

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.6073 of 2020**

Manoj Kumar son of Late Etwari Prasad, resident of village- Chandasi, P.s.-
Noorsarai, District- nalanda

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Revenue and Land Reforms Department, Bihar, Patna
2. The Divisional Commissioner, Patna Division, Patna
3. The District Magistrate cum Collector, Nalanda at Bihar Sharif
4. The Block Development Officer, Noorsarai, Nalanda
5. The Circle Officer, Noorsarai, Nalanda
6. The Panchayat Secretary, Gram Panchayat Raj, Chandasi, Noorsarai, Nalanda
7. Mukhiya Gram Panchayat Raj, Chandasi, Noorsarai, Nalanda

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy (GP18)
For the Respondent no. 7:	:	Mr. Birju Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 20-10-2020 Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel representing respondent no. 7.

The petitioner in the present case is seeking a writ of mandamus directing the respondents to remove the construction of building of Panchayat Bhawan, Gram Panchayat Raj Chandasi, Noorsarai, Nalanda which according to the petitioner has been forcibly constructed and is being constructed by respondent no. 4 in collusion with respondent no. 7 on plot no. 1610 under Khata No. 92 measuring area 36 decimal.

It is the case of the petitioner that the father of the



petitioner was a military personnel and the then District Land Reforms Officer, Patna vide his memo no. 2327 dated 22.01.1965 had settled the aforesaid plot along with two other plots measuring an area 1.24 acres in the name of the father of the petitioner and the same was communicated to him by the concerned Halka Karamchahi for information and necessary action in this regard vide memo no. 616 dated 14.12.1965 (Annexure '1').

The grievance of the petitioner is that though after the death of the father of the petitioner the Jamabandi was transferred in the name of the petitioner and the same was running in his favour, the Register II of the Halka Chandasi was uploaded in computer for issuing rent receipts but out of settled three plots only one plot i.e. plot no. 1730 has been uploaded and then he approached respondent no. 5 who assured to make correction in the online Register II on the basis of the documents (Annexure '2').

It is then stated that in the meantime respondent no. 4, 6 and 7 came on the land bearing no. 1610 which the petitioner is claiming and they started laying out the construction of Panchayat Bhawan, the petitioner raised an objection and thereafter he requested the Circle Officer-respondent no. 5 to restrain from constructing the building of the Panchayat Bhawan. The petitioner has grievance that despite his submission of the documents with his application as contained in Annexure '3', the grievance of the petitioner was not considered and while moving this Court the



petitioner came with a plea that unless the construction is stopped the very subject matter of the case and the nature of the land itself will be changed.

On the other hand in the counter affidavit filed on behalf of the Circle Officer, Noorsarai, it has been specifically stated in paragraph '6' that a manipulation has been done in Annexure '1' to the writ application. It is stated that plot no. 1610 is not under Khata No. 92 rather plot no. 1610 is under Khata No. 220 as is clear from the Khatian (Annexure 'A') to the counter affidavit. It is further stated that plot no. 1610 is having a total area of 75 decimal and the claim of the petitioner on the basis of Annexure '1' or any other document stands falsified as the petitioner has not even mentioned the boundary of the alleged settled plot no. 1610.

It is stated that only two plots, namely, plot no. 1712 and 1730 under Khata No. 92 were settled with the father of the petitioner and Jamabandi was created accordingly. The same Jamabandi has been transferred in the name of the petitioner. It is then stated that there may be a human error and one plot no. 1712 was left in online uploading but contrary statement in the writ application is not correct.

It is further stated that plot no. 1610 under Khata No. 220 in village Chandasi was selected for construction of Panchayat Bhawan after the Halka Karamchari, Circle Inspector, Panchayat Secretary, Junior Engineer, Block Development Officer and the



Circle Officer had found that plot no. 1610 is a Government land and is parti. In this connection, the checklist of selection of the land has been brought on record as Annexure 'B' to the counter affidavit..

The claim of the petitioner has been strenuously contested by the respondent no. 5. It is submitted that in fact the State Government has allotted two plots to the father of the petitioner being an army personnel and the said plots were not transferable but the petitioner has indulged in selling of 15 decimal of land of plot no. 1730 under Khata No. 92 by accepting a consideration of Rs.3,60,000/- by giving false declaration in paragraph '8' of the sale deed that the land is not concerned with the settlement. It is for this reason the purchaser of the said land could not get mutation of land in his name.

The respondent no. 7 has also filed a counter affidavit. In his counter affidavit the respondent no. 7 has reiterated the stand of respondent no. 5 and it is submitted in his counter affidavit that on perusal of the records such as Register II itself it would appear that the plot no. 1610 is gairmajarua malik land which is Government from where 39 decimals has been given by concerned Government authority for construction of Panchayat Raj Bhawan, Chandasi and upon perusal of the original records and physical verification of the plot the said decision was taken. It is also pointed out that so far as Annexure '1' showing Khata No. 92 plot no. 1610 measuring area 36 decimals is concerned, no Jamabandi of this plot has been created in



the name of the father of the petitioner and that itself quash the claim of the petitioner.

In course of argument learned counsel for the petitioner has repeatedly argued on the basis of Annexure '1' that plot no. 1610 forms part of the settlement, however, it is not denied that no Jamabandi in respect of plot no. 1610 has been created in favour of the father of the petitioner. It is also not denied that plot no. 1610 is under Khata No. 220 and not under Khata No. 92. It is his stand that the Jamabandi has been created in respect of 1 Acre 24 decimal of land and it includes 36 decimal of plot no. 1610.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the petitioner is relying upon Annexure '1' which is document containing plot no. 1610 under Khata No. 92. Annexure '1' refers to settlement vide case no. 11/2 of 1963-64 and plot no. 1610 has been shown under Khata No. 92. It is also evident that the rent receipts have been issued showing total area of land being 1.24 acre but then this Court finds that there is no denial of the fact that no Jamabandi was created in the name of the father of the petitioner in respect of plot no. 1610. There is no denial that plot no. 1610 is a gairmajarua malika land which belongs to the State Government and it falls under Khata No. 220 and not under Khata No. 92. No mutation order in respect of plot no. 1610 in favour of the father of the petitioner has been brought on record.

The various documents brought on record on behalf of



respondent no. 5 and respondent no. 7 to show that the decision of construction of Panchayat Bhawan was taken and there are documents showing the selection of land being plot no. 1610. Respondent no. 5 as well as respondent no. 7 have taken a consistent plea in the counter affidavit saying that the plot in question has been selected for construction of Panchayat Raj Bhawan being a gairmajarua malika (Government land) and the claim of the petitioner is absolutely baseless. It is also stated in the counter affidavit of the respondent no. 7 that after the decision of the Aam Sabha meeting of the Gram Panchayat Raj, Chandasi, 60 % construction of the Panchayat Bhawan has been completed, though after the interim order of this Court further construction has been stopped.

This Court finds that the case involves highly disputed question of fact which cannot be decided on the basis of the affidavits of the parties. The writ jurisdiction of this Court in the opinion of this Court is not appropriate jurisdiction in which such disputed claims with respect to the land in question may be decided, instead this Court finds that there is a special statute in the State of Bihar dealing with the resolution of dispute in respect of land. This Court, therefore, refrain itself from entering into the further discussion or making any observation with regard to the rights which are being claimed by the petitioner and are being disputed by the respondents.

This writ application is dismissed with liberty to the



petitioner to seek his remedy before appropriate forum in accordance with law. The interim order, if any, stands vacated.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

