

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8087 of 2020

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Sriram Singh, Male, Aged about 50 years, S/o Late Nagendra Singh, Resident of Vill.-Gothani, P.O.-Bhadwa Bazar, P.S.-Rafiganj, Distt. Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Land Revenue Department, Government of Bihar, Patna.
2. The Collector, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Sub-Divisional Magistrate, Aurangabad.
5. The Circle Officer, Rafiganj, Aurangabad.
6. The S.H.O., Rafiganj Police Station, Aurangabad.
7. Awadhesh Kumar Singh, S/o-Not Known, the then Circle Officer, Rafiganj, Aurangabad.
8. Rajeev Ranjan Gupta, S/o-not Known, the then S.H.O, Rafiganj Police Station, Aurangabad.

.....Respondents 1st Set

9. Shailesh Kumar Singh
10. Sunil Kumar Singh
11. Sanjay Kumar Singh,
12. Dhananjay Kumar Singh

Respondent no. 9 to 12 are sons of Late Surendra Kumar Singh who are Resident to Vill+P.O.-Dharah, P.S.-Goh, Distt.-Aurangabad.

.....Respondents 2nd Set

13. Binjay Singh
14. Sushil Kumar Singh
15. Rampukar Singh
16. Santosh Kumar Singh

Respondents No. 13 to 16 are sons of Late Nagendra Singh, Resident of Vill-Gothani, P.O.-Bhadwa Bazar, P.S.-Rafiganj, Distt.-Aurangabad.

.....Respondents 3rd Set

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suresh Mishra, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG 12 with Ms. Nutan Sahay, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH



ORAL JUDGMENT

Date : 07-01-2021

Heard Mr. Suresh Mishra, learned counsel for the petitioner and Mr. Md. Khurshid Alam, learned AAG 12 along with Ms. Nutan Sahay, learned AC to AAG 12 for the State.

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

“I. For issuance of an appropriate writ /writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo no. 417/Nya. dt. 13.06.2020 passed by the Sub-Divisional Magistrate, Aurngabad whereby and where under the petitioner and his brothers have been restraiend from the enjoining the fruit of the cultivated crop of maize, which is going to be destroyed, on the land of area 08 Bigha bearing Khata no. 41 Plot no. 60, area-07 Acre 67 Dismil lying at Village -Gothani, Thana No. 656, Police Station-Rafiganj, District-Aurangabad as well as from cultivating the rest land of area about 18 Bigha (as contained in Annexure-8 of the instant writ petition) in fair manner, in its true spirit and as per law provided by the legislature.

II. For issuance of an appropriate writ /writs, order/orders, direction/directions in the nature of mandamus directing the respondent nos. 5 & 6 not to restrain the petitioner or his brother from cultivating the land in question.

III. For issuance of an appropriate writ /writs, order/orders, direction/directions in the nature of mandamus directing the concerned Respondent authorities to pay the compensation of destroyed crop of maize since the concerned police authority i.e., the then S.H.O., Rafiganj Police Station kept



the Chaukidar to restrain the petitioner to reach at the plot in question.

IV. Any other relief/reliefs may also be granted in favour of the petitioner for which he is found to be entitled in law of the facts and circumstances of the case.”

3. Counter and supplementary counter affidavit as also rejoinder has been filed on behalf of the parties.

4. Learned counsel for the petitioner submitted that the order impugned is without any notice to him and the same, thus, is unsustainable in law.

5. Learned counsel for the State submitted that besides the fact that the said order may not be in operation today due to efflux of time, but upon enquiry the authorities have found that the very basis of *jamabandi*, which was a so-called settlement by the ex-landlord reflected in the return filed by him, appears to be fraudulent as the writing and colour of the relevant pages of the government record are different due to which the authorities have cancelled the *jamabandi*. However, learned counsel fairly submitted that the petitioner has now moved in title suit against his rival and in that suit, he has the liberty to seek injunction or any other interim relief. Thus, it was submitted that the role of the authorities is limited to ensuring that there is no law-and-order problem on the ground and for that reason only the restrain order was passed. It was submitted



that the authorities cannot shut their eyes in the event of there being a threat perception to any threat to peace on the land and in the area.

6. Learned counsel for the petitioner, by way of reply, submitted that he is in possession over the land and, thus, such order restraining him is not proper.

7. Be that as it may, when *prima facie*, based on reasonable ground, suspicion has been raised with regard to the very authenticity of the document on which *jamabandi* was created and title is claimed, coupled with the fact that now the matter is before the Civil Court of competent jurisdiction, the Court is not inclined to interfere.

8. Suffice to say that the authorities are required to ensure that at the spot there is no law-and-order issue or any threat to public peace, for which they are required to take all possible steps available to them in law. As far as the claim of the petitioner to the land in question, the same, but necessarily, has to be now decided by the Civil Court before which the *lis* is pending and in which, if so advised, the petitioner or any party may move an application for any interim order which they feel is required to be passed.

9. The writ petition stands disposed off in the



aforementioned terms.

10. Before parting, the Court would only observe that it has not gone into merits of the rival claim, which has to be decided by the Civil Court and, thus, the discussion on merits has not made in this order.

(Ahsanuddin Amanullah, J)

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