

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6416 of 2020

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1. Abu Talib @ Abu Kalib, Male aged about 60 years, Son of Saiyed Ali Mojibul Rahman, Resident of Ruidhasa, Khankah Road, P.S. Kishanganj and District- Kishanganj.
 2. Shahjahan @ Shajahan, Male aged about 55 years, Son of Mojibul Rahman, Resident of Ruidhasa, Khankah Road, P.S. Kishanganj and District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Old Secretariat, Patna.
2. The Divisional Commissioner, Purnea.
3. The District Collector, Kishanganj.
4. The Additional Collector, Kishanganj.
5. The Sub- Divisional Officer, Kishanganj.
6. The D.C.L.R., Kishanganj.
7. The Block Development Officer, Kishanganj.
8. The Circle Officer, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Respondent/s : Mr. Subash Chandra Yadav, GP 15

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 01-04-2022

Heard the parties through video conferencing.

The case is being taken up from defect side.

Learned counsel for the petitioners is directed to submit the original petition along with attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.



Learned counsel appearing for the petitioners submits that the order impugned Annexure-1 dated 23.11.2018 has been passed cancelling the land which was given by way of *Bandobasti* to the predecessors of the petitioners namely Saiyed Ali, Anisur Rahman, Mujibur Rahman and Habibur Rahman, son of Som Mohammad. All the four persons have expired. No notice was given to the petitioners. The order has been passed against that persons and on the basis of such an order, the order has been further passed on 08.12.2020 as placed on record by the other respondent as Annexure-B in their counter affidavit. Both the orders therefore deserve to be set aside, as they have been passed as against persons who had already died long back. The petitioners have not been given any hearing nor notice has been give to them.

Learned counsel appearing for the State submits that the Government land has been handed over to the petitioners' forefathers and the *Bandobasti* conducted in 1966-67 is, therefore, cancelled. However, he is unable to defend the order on the ground raised by the petitioners that the same have been passed against dead person.

This Court is of firm view that no order can be passed against dead person. The present petitioners are in possession of the land and the minimum required was give them a notice and



opportunity of hearing with regard to a land granted by way of *Bandobasti* to their forefather, way back in the years 1966-67 by way of *Bandobasti*.

The contentions of learned counsel for the respondents that the land was a Government land is also found to be without basis as there is no enquiry done after giving opportunity of hearing to the petitioners.

Keeping in view thereto, this writ petition deserves to be allowed and is accordingly allowed. The order impugned dated 23.11.2018 and any consequential orders including Annexure-B dated 08.12.2020 are quashed and set aside. The petitioners shall be allowed to continue and maintain possession and use of the land given by way of *Bandobasti* in the year 1966-67.

The writ petition is allowed in the aforementioned terms.

(Sanjeev Prakash Sharma, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

