

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11107 of 2022

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Gorakh Nath Dubey Son of Late Sheo Parichhan Dubey, Resident of Village-Banthu Sriram, Police Station-Andar, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Additional District Magistrate, Siwan.
4. The D.C.L.R., Siwan.
5. Circle Officer, Ziradei, District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Pravesh Nath Tiwari
For the Respondent/s : Mr.Md. Khurshid Alam (Aag 12)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 26-09-2022 **I. A. No. 1 of 2022**

The present interlocutory application has been filed for substitution of heir and legal representative of the sole petitioner (Gorakh Nath Dubey) who died on 08.08.2022.

For the reasons mentioned in the interlocutory application, it is allowed.

Let the heir and legal representative of the sole petitioner (Gorakh Nath Dubey) be substituted in his place the name of his only son as mentioned in paragraph No. 2 of the interlocutory application and the name of the petitioner be expunged from the array of the petitioner.



CWJC No. 11107 of 2022

Heard the parties.

The order dated 31.08.2021 was passed by the Additional Collector, Siwan in Jamabandi Cancellation Case No. 176 of 2018-19 by which Jamabandi created in favour of the petitioner with regard to Mauza Banthushriram Thana No. 221, Khata No. 136, Khesra No. 872 has been cancelled.

It has been submitted by learned counsel for the petitioner that longstanding Jamabandi in the name of a citizen cannot be cancelled in Jamabandi Cancellation Case No. 176 of 2018-19 but the State has to file a Title Suit for cancellation of Jamabandi. In this regard, learned counsel for the petitioner has relied upon the judgment of Division Bench of this Court in the case of *State of Bihar through the Collector Vs. Harendra Nath Tiwary reported in 2015 (1) PLJR 606*.

From the order it is clear that notice issued to the petitioner was not served upon him but it was served upon brother of the petitioner. The service of notice on the brother of the petitioner is not a valid notice in the eye of law. This vitiates the entire proceeding.

If there is violation of the principles of natural justice in the original proceeding this Court will not wait for decision



of the appeal.

In view of the aforesaid submission of learned counsel for the petitioner it is held that if and when the State wants to cancel longstanding Jamabandi in the name of the petitioner, State will have to file a Title Suit in the Civil Court and Jamabandi of the petitioner cannot be cancelled by the Additional Collector by starting Jamabandi Cancellation Case.

Considering the above, the order dated 31.08.2021 passed in Jamabandi Cancellation Case No. 176 of 2018-19 is quashed.

With the aforesaid observations and directions, this writ petition is allowed with cost.

(Sandeep Kumar, J)

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