

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1609 of 2023**

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Yogendra Yadav Son of Jaishree Yadav, Resident of Village - Madbhubani,  
Police Station - Sangrampur, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary Revenue Land and Reforms Department,  
Government of Bihar, Patna.
3. The District Magistrate, Motihari, East Champaran.
4. The Additional District Magistrate, Motihari, East Champaran.
5. The Sub Divisional Officer, Areraj, Motihari, District - East Champaran.
6. The Land Reforms Deputy Collector, Areraj, East Champaran.
7. The Circle Officer, Sangrampur Block, District - East Champaran.
8. Punam Devi, Wife of Ramesh Ram, Village - Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.
9. Sima Devi, Wife of Raju Ram, Village - Madbhubani Tola, Suklahiya, Police  
Station - Sangrampur, District - East Champaran.
10. Nitu Devi, Wife of Shatruhan Ram, Village- Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.
11. Guddi Devi, Wife of Late Ganesh Ram, Village- Madbhubani Tola,  
Suklahiya, Police Station - Sangrampur, District - East Champaran.
12. Arti Devi, Wife of Manager Ram, Village- Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.
13. Nirmala Devi, Wife of Ramjit Ram, Village- Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.
14. Rita Devi, Wife of Raghu Ram, Village- Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.
15. Sangita Devi, Wife of Jhagru Ram, Village- Madbhubani Tola, Suklahiya,  
Police Station - Sangrampur, District - East Champaran.

... .. Respondent/s

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**Appearance :**

|                      |   |                                       |
|----------------------|---|---------------------------------------|
| For the Petitioner/s | : | Mr. Anil Kumar, Adv.                  |
| For the State        | : | Mr. Sajid Salim Khan, SC-25.          |
|                      | : | Mr. Arif Daula Siddiqui, AC to SC-25. |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 04-07-2023**

Heard learned counsel for the petitioner and

learned counsel for the State.

2. The present writ petition has been filed for cancellation of parcha of 24 decimal of the land issued on 29.03.2022 (Annexure-6 series) by which in total 3 decimal of land has been allotted in favour of each private respondents (respondent no.8 to 15) appertaining to Khata No.1494, Plot No.15074, total area ad-measuring 24 decimal of land situated at Mauza – Madhubani Tola, Suklahiya, Police Station – Sangrampur, District – East Champaran in Land Settlement Case No.5 of 2021-22.

3. Learned counsel for the petitioner submits that the said land appertaining to Khata No.1494, Plot No.15074 is having total area of 190 decimal and out of 190 decimal, 110 decimal of land was settled in favour of the grandfather of petitioner, namely, Late Doma Raut. He further submits that 60 decimal of land has been carved out for the construction of road and the rest 20 decimal of land was *Brahmsthan* Temple, as such, no land exists in the aforesaid Khata. Learned counsel further submits that Government had proposed to construct a school on the said land which was left for the construction of road, for which a title suit has been filed bearing Title Suit No.357 of 2009 against the Government of Bihar through

District Collector, East Champaran and other officials which is pending before the Court of Sub Judge, Areraj, Motihari, East Champaran. He further submits that the Circle Officer had initiated process for settlement of the said land which was left for road and for which Title Suit No.357 of 2009 was pending but ignoring the pendency of title suit as well as the pendency of injunction petition in the said title suit, he has initiated the process of settlement and subsequently 24 decimal of land had been settled in favour of private respondent nos.8 to 15 of this writ petition. Learned counsel submits that recommendation was made by the Circle Officer, Sangrampur Block, District East Champaran order was passed by the Sub-Divisional Officer, Areraj, Motihari, District-East Champaran and subsequently approved by the Deputy Collector Land Reforms Officer, Areraj, District- East Champaran and thereafter parcha was also granted in this matter to the private respondents.

4. Learned counsel for the petitioner submits that the said settlement has been made following the provisions of the Bihar Privileged Persons Homestead Tenancy Act, 1947. He further submits that the petitioner has filed representations before the Collector of the District East Champaran which is annexed as Annexure-8 & 9 to the writ petition against the said

settlement but till date no decision has been taken by the Collector on the representation/application of the petitioner.

5. Learned counsel for the State has filed counter affidavit in this case and in the counter affidavit it has been submitted that the present writ petition has been filed to quash the parcha issued on 29.03.2022 in respect of 24 decimal of land of Plot No.15074, Khata No.1494 situated at Mauza – Madhubani Anchal – Sangrampur, District – East Champaran in favour of private respondent nos.8 to 15. He also submits that in the said Khata and Plot there was in total 1 acre 90 decimal of land out of which 1 acre 10 decimal of land has been settled in favour of Late Doma Raut and there is no disturbance to the petitioner in the said matter and, therefore, he is unnecessarily raising the dispute. He also submits that private respondents are landless persons and those lands are most suitable for them. He further submits that 30.5 decimal of land are for construction of road and 25.5 decimal of land are for the place of worship/Deosthan. It has also been submitted that the settlees are in respect of respective settled area.

6. Upon going through the pleadings and hearing the parties as well as considering the position of law as laid down in the Bihar Privileged Persons Homestead Tenancy Act,

1947 (Bihar Act IV of 1948), the power of settlement of Parcha has been discussed in detail under Section 17 (A) of the said Act and a provision has also been made under Section 18 of the said Act that the orders passed under this Act shall be final subject to provision of Section 21 of the said Act. Section 21 of the said Act is a power specially provided to the Collector of the District to call for and examine the record. Section 21 of the said act states as follows:-

***“21. Power of the Collector of the District to call for and examine records. -***

*Notwithstanding anything to the contrary contained in any judgement, decree or order of any Court or authority; the Collector of the district may on his own motion or on the application of any party, or on reference being made by any subordinate authority, call for and examine record of any case decided or proceeding taken by the Collector under the Act for satisfying himself as to the regularity of the proceeding or to the correctness, legality or propriety of an order passed by the Collector under the Act in the*

*case or proceeding, and may after, allowing the parties concerned opportunity of being heard, direct that the case or the proceeding be reopened and disposed of afresh in accordance with the provisions of this Act.”*

7. After going through the provisions of the Statute, it is crystal clear that the Collector of the District may on his own motion or on the application of any party, or on reference being made by any subordinate authority, call for and examine record of any case decided or proceeding taken by the Collector under the Act. Here in the present case, petitioner has filed representation (Annexure-8) before the Collector of the District but till date no decision has been taken by the Collector on the said application.

8. In this view of the matter, this Court is of the view that presently this matter is not matured to be heard by the Writ Court and, therefore, District Magistrate-cum-Collector, Motihari, East Champaran (respondent no.3) is directed to exhaust his power so vested in him by virtue of Section 21 of the Bihar Privileged Persons Homestead Tenancy Act, 1948 (Bihar Act IV of 1948) to pass a reasoned order about the correctness, legality or propriety of order about which the

petitioner has made claim before him vide Annexure-8 within 90 days from the date of filing of fresh representation/ application in continuance of Annexure-8 of the writ petition.

9. With this observation and direction, the present Writ Petition stands disposed off.

**(Dr. Anshuman, J.)**

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