

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2480 of 2023

1. Md. Zafrullah Ansari Son of Late Haji Abdullah, Resident of Village-Khiriyawan, Post Office and Police Station-Madanpur, District-Aurangabad, at present resident of Mohalla-Millat Colony, Post Office and Police Station-Kanke, District-Ranchi, State Jharkhand.
2. Nafis Ahmad, son of Ahmaddullah, Resident of Village-Khiriyawan, Post Office and Police Station-Madanpur, District-Aurangabad

... .. Petitioner/s

Versus

1. The Secretary the National Highway Authority of India Government of India, New Delhi.
2. That Principal Secretary, Revenue and Land Reform Government of Bihar at Patna.
3. The Director, Land Acquisition Department, Government of Bihar at Patna.
4. The Collector at Aurangabad, District-Aurangabad.
5. The Additional Collector-cum-Additional District Magistrate, Aurangabad, District-Aurangabad.
6. The Deputy Collector Land Reforms at Aurangabad, District-Aurangabad.
7. The District Land Acquisition Officer Aurangabad, District-Aurangabad.
8. The Sub-Divisional Officer, Aurangabad, District-Aurangabad.
9. The Anchal Adhikari, Anchal / Post Office / Police Station-Madanpur, District-Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shiv Kumar Dwivedy, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC- 25
		Mr. Wasi Ahmad Khan, AC to SC-25
For the NHAI	:	Mr. Dr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 11-07-2023

Heard learned counsel for the petitioners and
learned counsel for the State.

2. The present writ petition has been filed for
setting aside the order dated 04.08.2022 passed by Joint

Signature of Additional Collector-cum-Additional District Magistrate, Aurangabad and the Collector, Aurangabad in Raiyati Approval Case No. 60 of 2015-16 whereby and whereunder the raiyati rights of the petitioners in the disputed land has been rejected with regard to Khata No. 66, Revenue P.S. No. 784, Plot No. 529 and 536 and Rakwa-0.1007 hectare.

3. Learned counsel for the petitioners submits that in the order sheet Khata No. 66 has wrongly been mentioned. He further submits that his claim is relating to Khata No. 67 but rest other things are correct. Counsel further submits that the Circle Officer, Aurangabad, Deputy Collector Land Reform, Aurangabad and Sub-Divisional Officer, Aurangabad upon consideration of the documents as well as the report of possession for more than 30 years had recommended the declaration of raiyati rights in the name of the petitioners. Counsel also submits that the jamabandi was open in their name and continue was in their name since 1959-60 and rent receipt was granted to him up to 2016-2017 i.e. for more than 30 years, therefore, in this view of the matter they have lawful right on the said land. Counsel further submits that from the said order sheet, it transpires that there is no reason assigned as why the Additional Collector and Collector has not considered the case

of the petitioner, only one line finding is against him that the competent evidence has not been filed by the petitioner but what are the competent evidence which has not been produced, has not been mentioned.

4. Learned counsel for the State submits that the said order has been passed under the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). Counsel further submits that there is a resolution issued by the Government of Bihar vide Memo No. 925 dated 11.11.2014 in which it has been decided that those lands who were under the possession of the former landlord or their heirs and legal representatives in whose name rent receipts were granted, against them the action has to be taken under Sections 5,6 and 7 of the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). Counsel further submits that the said order dated 04.08.2022 has been passed completely applying the law laid down under Sections 5,6 and 7 of the Bihar Land Reforms Act, 1950.

5. At the time of passing the order dated 04.08.2022 neither the Additional Collector nor the Collector has whispered about the applicability and consideration of document on which basis the order has been passed.

6. As such, in view of this Court, the order dated

04.08.2022 is absolutely perverse, non-speaking, lack of legal knowledge and also lacking the appreciation of the documents as to what documents are not competent and non-considerable, as such this Court is set aside the order dated 04.08.2022 passed in Swamitwa Satyapan Case No.60 of 2015-16.

7. However, the respondents are directed to pass order a fresh providing opportunity to hearing to the petitioners upon considering all the documents as well as the provisions of law, after filing the fresh representation by the petitioners before them within four weeks along with the order of this Court. The respondents are directed to pass a fresh order within 8 weeks thereafter.

8. With the aforesaid direction, the present writ petition is hereby disposed off.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.07.2023
Transmission Date	N.A.