

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4767 of 2020

Raj Narayan Yadav, S/o Tarni Prasad Yadav, Resident of Village- Ward No.9,
Rariyaha, P.S. Ghailarh, District-Madhepura.

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Revenue and Land Reforms Department, Government of Bihar.
2. The District Magistrate, Madhepura.
3. The Additional Collector, District-Madhepura.
4. The In-charge Officer, (Revenue), Madhepura.
5. The Anchaladhikari, Anchal-Ghailarh, District-Madhepura.
6. The Halka Karamchari, Anchal Ghailarh, District-Madhepura.
7. The Head Master, Durga Middle School, Ghailarh, P.S. Ghailarh, District-Madhepura.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, G.P-18

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

CAVJUDGMENT

Date : 31-07-2023

In this case, the petitioner has prayed for the following reliefs:-

- “i. For issuance of a writ in the nature of certiorari or any other appropriate writ/writs, order/orders, or direction for quashing/setting aside the letter No.192-2 dated 07.04.2017 whereby and whereunder the Anchaladhikari, Ghailarh has recommended cancellation of Jamabandi No.1825 which has created in the name of the petitioner according to section 106 B.T. Act after complying all legal procedure.*
- ii. For issuance of any appropriate writ/writ,*



order/orders or direction for commanding the respondent authorities to hold the claim and retained the possession of land appertaining to the Mauza-Ghailarh, Khata No.1625, Plot No.1501, 1502, 1503 area 0.16 decimals in his favour.”

2. The short facts of this case, as stated in the writ petition, are that one Bindeshari Yadav and others filed Case No.3910 of 1981 under Section 106 of the Bihar Tenancy Act, in which the petitioner became intervenor by claiming that the land pertaining to Mauza-Ghailarh, Khata No.1625, Plot No.1502, area 03 decimals out of 0.12 decimals, Plot No.1403 area 0.13 decimals of land out of 0.21 decimals of land, total 0.15 decimals of land was granted to the grand-father of the petitioner through *Bandobasti* by the original landlord and the petitioner is in possession of the aforesaid land. The Revenue Officer (Survey), Saharsa vide order dated 12.04.2005 directed the concerned authority to include the name of the petitioner in Khatiyan. Accordingly, the name of the petitioner was included in the Khatiyan. It is also the case of the petitioner that after passing of the order of the Revenue Officer, the petitioner applied for mutation of the land in question before the Circle Officer. Thereafter, the Circle Officer initiated a Mutation Case



No.1075 of 2013-14 and directed the Karamchari to submit a report.

2.1. In view of the order passed by the Revenue Officer (Survey), Saharsa, the Circle Officer, Ghailarh, also sent a letter dated 22.06.2013 to the In-charge Officer (Revenue), Madhepura to affirm the correction in the record of right, who vide order dated 24.06.2013 informed the Circle Officer that the record of right has been corrected. Thereafter, the Circle Officer, Ghailarh, registered Mutation Case No.1075 of 2013-14 and after following the due procedure, allowed the Mutation Case and permitted to file correction slip and accordingly, Jamabandi was opened in the name of the petitioner and correction slip was filed with respect to the land in question. Thereafter, the petitioner is in peaceful possession of the land in question. However, in the year 2017, the Circle Officer, Ghailarh sent a letter dated 07.04.2017 to the Additional Collector, Madhepura, by which he recommended to cancel the Jamabandi No.1825 of the petitioner with respect to the land in question on the ground that it has been created under Section 106 of the Bihar Tenancy Act.

3. Learned counsel for the petitioner submits that the land in question was given to the grand-father of the



petitioner through *Bandobasti* and thereafter the name of the petitioner has been included in the record of right and finally the Circle Officer created Jamabandi in the name of the petitioner after following due procedure but, the Circle Officer without following any procedure recommended to cancel the Jamabandi of the petitioner with respect to the land in question. He further submits that the name of the petitioner has been included in the *Khatiyan* under the provisions of the Bihar Tenancy Act but without initiating any proceeding under the Bihar Tenancy Act, the Circle Officer recommended for cancellation of Jamabandi of the petitioner, which is illegal and arbitrary.

4. An Interlocutory Application No.01 of 2021 has been filed seeking amendment in the writ application questioning the subsequent order dated 24.07.2021 passed by learned Additional Collector-cum-Additional District Magistrate, Madhepura, in Mutation Cancellation Case No.19 of 2017.

5. For the reasons mentioned in the interlocutory application No.01 of 2021, it is allowed.

6. I have considered the submissions of the parties.

7. The order dated 24.02.2021 passed during



the pendency of this case can be challenged by the petitioner in Appeal/Revision before the appropriate authority.

8. Since alternative remedy is available to the petitioner to challenge the order dated 24.02.2021, I am not inclined to interfere in the matter at this stage.

9. Accordingly, this writ petition is disposed of with a liberty to the petitioner to challenge the order dated 24.02.2021 before the appropriate Forum/Authority in accordance with law.

10. If the petitioner files an appeal/revision within three months from today against the impugned order dated 24.02.2021, the authority concerned shall condone the delay, if any caused in filing the appeal/revision considering the fact that the petitioner was availing the remedy of writ jurisdiction before this Court.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	21.12.2022
Uploading Date	02.08.2023
Transmission Date	

