

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4523 of 2020

1. Smt. Anju Kumari W/o Late Krishna Singh Resident of Sri Ram Niwas, Sinha College Road, P.S. Aurangabad, Dist.- Aurangabad. (Since deceased)
2. Hari Shankar Singh Son of Late Krishna Singh Resident of Sri Ram Niwas, Sinha College Road, P.S. Aurangabad, Dist.- Aurangabad.
3. Shri Ravi Shankar Singh late Krishna Singh Resident of Sri Ram Niwas, Sinha College Road, P.S. Aurangabad, Dist.- Aurangabad.
4. Smt. Neha Kumari daughter of late Krishna Singh Resident of Sri Ram Niwas, Sinha College Road, P.S. Aurangabad, Dist.- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Secretary Department of Urban Development, Government of Bihar, Main Secretariat, Patna.
3. The Commissioner Magadh Division, Gaya.
4. The Collector Aurangabad.
5. The Additional Collector cum District Grievance Redressal Officer Aurangabad.
6. The Executive Officer Aurangabad Nagar Parishad, District Aurangabad.
7. The Circle Officer Aurangabad Circle, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Priya Gupta
For the Respondent/s	:	Mr.Sajid Salim Khan (Sc25)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT

Date : 31-07-2023

Re. I.A. No. 1 of 2020

The present interlocutory application has been filed on behalf of the petitioners seeking amendment in the prayer portion of the writ petition.

2. For the reasons mentioned in the interlocutory (I.A. No. 1 of 2020), the same is allowed.

3. Accordingly, the averments made in the **I.A. No. 1 of**



2020 shall be treated to be the part of the main petition.

Re. I.A. No. 4 of 2021

4. The present interlocutory application has been filed for substitution of heirs and legal representatives of the Petitioner No. 1 (Smt. Anju Kumari) who died on 09.12.2020 leaving behind her heirs and legal representatives.

5. For the reasons mentioned in the interlocutory application, this interlocutory application (I.A. No. 4 of 2021) is allowed.

6. The heirs and legal representatives of the Petitioner No. 1 (Smt. Anju Kumari) as mentioned in paragraph No. 2 of the present interlocutory application be substituted in her place and the name of Petitioner No. 1 (Smt. Anju Kumari) be expunged from the array of the parties.

Re. C.W.J.C. No. 4523 of 2020

7. Heard the parties.

8. The present application has been filed for following reliefs:-

i) For quashing of the order dated 18.01.2020 passed by the Commissioner, Magadh Division, Gaya on the Appeal filed by the petitioners under the provisions of Bihar Right to Public Grievance Redressal Act, 2016 by which he has failed to redress the grievance of the



petitioners and closed the case as being illegal and arbitrary.

ii) For quashing the order dated 31.10.2019 passed by the Additional Collector-Cum-District Public Grievance Redressal Officer, by which he failed to apply his mind for redressal of the grievance of the petitioners.

iii) For issuance of appropriate Writ or direction upon the Respondents to forthwith restore back the possession of the land of the petitioners to them which the Respondents have forcibly taken in possession and has deprived its possession to the petitioners and as such the petitioners are suffering everyday.

iv) For issuance of a direction upon the Respondents to vacate the petitioners' land and if the Respondents fail to take recourse of any proceeding for legal acquisition of land for taking possession of the same as it has not only deprived the petitioners from possession without making payment of any compensation but are also illegally continuing in possession over the entire 3 Acres most valuable land of the petitioners.

v) For direction upon the Respondents to forthwith pay the compensation of the petitioners' land unauthorizedly taken over by the Respondents and continuing the same on day-to-day basis as the Respondents have illegally constructed road and Chhath Ghat on the land of the petitioners without initiating any acquisition proceedings and payment



of compensation for the same.

vi) For direction upon the Respondents to get the land measured from the side of Pipardih Main Road to carve out the total area of land measuring 3 Acres and either to vacate forthwith the said land and hand over the possession of the same to the petitioner or to pay the compensation of the same as per law and the present government value as per Circle Rate without delay.

vii) For a direction upon the respondents to get the land measured from some independent Amin or Survey Knowing Pleader Commissioner who are not in any manner connected with the District Authorities or even the Nagar Parishad, Aurangabad.

viii) For declaration that the act of the Respondents to dispossess the petitioners from their land without initiating any land acquisition proceeding for the same is arbitrary and malafide on part of the Respondents and/or to pass such other relief or reliefs for which the petitioners are found entitled to the facts and circumstances of the present case.

9. It has been submitted on behalf of the petitioners that Late Bansnayak Singh, the Father-in-Law (*Sasur*) of the Smt. Anju Kumari (since deceased) and the Grand Father of the petitioner No. 2 had purchased a land bearing an area of 3 Acres situated at Mouza Shahpur bearing C.S. Khata No. 295, C.S.



Plot No. 1900 from one Mangar Yadav, son of Late Hasan Yadav in the year 1975 vide a Registered Sale Deed bearing No. 10740 dt. 21.07.1975 in joint name with Late Sri Ram Singh, being the Bhaisur of Anju Kumari (since deceased) and Uncle of Petitioner No. 2.

10. Learned counsel for the petitioners further States that after purchase of the land by late Bansnayak Singh along with late Sri Ram Singh, the same was mutated in the Land Revenue Records of the Respondents creating a New Jamabandi for the land purchased in their name. The Respondent Circle Officer vide order dated 15.04.1986 passed in Mutation Case No. 05 of 1983-84 created a new Jamabandi in joint name of late Bansnayak Singh and Late Sri Ram Singh. In the said order the then Circle Officer had clarified that the total area of the C.S. Plot No. 1900 in Khata No. 295, Thana No. 566 of Village Shahpur the total area was 5.05 Acre as per the records of Jamabandi No. 7A xi/82. Out of the aforesaid, the Rent Receipt of 3 Acre land was being issued in the name of Mangar Yadav. The said 3 Acre land was purchased by Registered Sale Deed No. 10740 dt. 21.07.1975 from Mangar Yadav. While considering the mutation case, the Circle Officer also considered the fact that an order sheet with respect to a proceeding under



Section 145 Cr.P.C. was also produced on record wherein it became evident that one Bhikan Yadav was trying to disturb the possession of late Banshayak Singh which gave rise to Case No. 545(M)/76/282/78 in the Court of Executive Magistrate, Aurangabad. In the said proceeding, by the final order, the possession of late Bansnayak Singh was declared and by that order the second party Bhikan Yadav @ Bhikshan Yadav was restrained from disturbing the possession over the land of Late Bansnayak Singh. This order had attained finality as no party challenged the same. Considering all these facts the Circle Officer, Aurangabad passed the order of Mutation on 15.04.1986 with respect to the land bearing Plot No. 1900, Khata No. 295 with the area of land bearing 3 Acres.

11. The Petitioners further stated that Bhikan Yadav challenged the order of Mutation in favour of the Petitioner before the Deputy Collector Land Reforms, Aurangabad giving rise to Mutation Appeal No. 61/1986-87. The learned DCLR after considering the matter in detail recorded a finding that the Appeal filed by Bhikan Yadav was misconceived and accordingly rejected the Appeal vide his order dt. 11.11.1986 and affirmed the order of mutation of the Circle Officer (C.O.) dt. 15.4.1986. He also directed the Circle Officer (C.O.) to issue



the rent receipt of the 3 Acre land on Khesra No. 1900, Khata No. 295 in favour of Bansnayak Singh.

12. Learned counsel for the petitioners further submits that Bhikan Yadav who had changed his stand in Mutation Appeal and instead of claiming the land with his Title had started alleging that the land was public land, being part of the river but since the finding of the DCLR in Mutation Appeal went against his plea, therefore, he preferred a Mutation Revision Appeal before the Additional Collector, Aurangabad which was registered as Mutation Revision Appeal Case No. 58/1986-87. In the said Mutation Revision, Bhikhan Yadav questioned the title of Mangar Yadav over the land and claimed that the land under dispute bearing Plot No. 1900 under Khata No. 295 with the area of 3 Acre was in public use being a river and funeral ground. The said Revision was heard and the Learned Additional Collector upheld the order of DCLR and rejected the Revision vide his order dt. 26.7.1991.

13. It is argued on behalf of the petitioners that the Petitioners could lay hand to an order which was passed on 26.7.1991 in the court of Learned Additional Collector, Aurangabad bearing Mutation Revision Case No. 62/1986 (State Vs. Bansnayak Singh). In the said Mutation Revision case the



Learned Additional Collector, Aurangabad recorded a finding that since all the revenue authorities have recorded their findings which had remained undisturbed by any competent civil court, therefore, there was no reason to disagree with those views, consequently he rejected the Revision.

14. The Petitioners further submits that late Bansnayak Singh, the grand father of Petitioner No. 2 had two sons, namely, Late Krishna Singh and Late Sri Ram Singh. Anju Kumari (since deceased) is the daughter-in-law and Petitioner No. 2 is the grand son of Late Bansnayak Singh. The husband of Anju Kumari (since deceased) was Late Krishna Singh. It is further important to mention that late Sriram Singh was the elder son of Late Bansnayak Singh who died issueless in the year 1984 whereas Late Krishna Singh died in the year 1992. Thus, the wife and children of Late Krishna Singh became the only survivors of the said land of 3 Acre. The grand father of the Petitioner No. 2, namely, Late Bansnayak Singh, was the only guardian to look after the Petitioners and he also died in the year 2008. After the death of late Bansnayak Singh, the property has now been inherited by the Petitioners No.1 & 2 as they are the only class one legal heir who have inherited the property of late Bansnayak Singh.



15. It is further submitted on behalf of the petitioners that after death of late Bansnayak Singh, the petitioners came in the possession of the land in question which was purchased by Late Bansnayak Singh in joint name with Late Sriram Singh as Sriram Singh has died issueless in the year 1984 itself.

16. Learned counsel for the petitioners further adds that since the plot of land of the petitioners bearing Plot No. 1900 in Khata No. 295 is adjacent to the river, thus, taking advantage of the same, the Respondents, particularly, the District Administration, Aurangabad, along with Nagar Parishad, Aurangabad forcibly deprived the possession of the Petitioners on the land. The Respondents have by use of State machinery constructed a Chhath Ghat on part of the land of the petitioners.

17. It is next submitted that the Respondents forcibly constructed a Ghat on the bank of river of the land of the Petitioners. When an application was filed by the Petitioners for measurement for earmarking the total area of 3 Acres of the land of the Petitioners, the Circle Officer appointed the Circle Amin giving rise to Measurement Case No. 1 of 2013 in which the Circle Amin even though wrongly prepared a measurement report but still he admitted that the Respondents had constructed a hut on the bank of the river on the land of the Petitioners in his



report dt. 7.5.2013 although the report was incomplete.

18. Learned counsel for the petitioners further submits that the petitioners learnt that on some portion of the land adjoining the river the Respondents were constructing a village road on which the Petitioner no. 2 submitted an application online in the office of the Public Grievance Redressal Officer, Aurangabad on 20.8.2019 for which a receipt was generated. In the grievance petition the Petitioners had mentioned about the illegal dispossession of the Petitioners and illegal construction of Ghat and partial construction of a road without any information to the Petitioners. The Petitioners claimed that their possession be restored.

19. Learned counsel submits that the Respondent Additional Collector cum District Public Grievance Redressal Officer, Aurangabad vide his order dt 31.10.2019 sought a report from the Respondent, Executive Officer, Nagar Parishad, Aurangabad who admitted that a Chhath Ghat and a road was constructed by them without taking any N.O.C. from the Anchal Adhikari. It was also accepted that the land belongs to the Petitioners on which the construction has been made but the concerned officer closed the case by stating that the Petitioners should approach the appropriate authority. The Petitioner was



advised to file an Appeal before the Respondent Divisional Commissioner, Magadh Division, Gaya-cum-1st Appellate Authority which was registered on 21.11.2019 bearing No. 434110120081905584/1A. The Divisional Commissioner required the presence of the Circle Officer and the Executive Officer, Nagar Parishad, Aurangabad. The Circle Officer presented his report in which he wrongly mentioned the area of the land of the Petitioner from 3 Acre to 3 Decimal and he accepted that on Khesra No. 1900 there was a Chhath Ghat and a PCC Road and some part is lying vacant but he stated that the claim of the Petitioner is not correct without mentioning any reason for the same. He further claimed that the land of the Petitioner has gone in the river.

20. It was submitted on behalf of the Petitioners that the measurement of the land should be done from the side of the Main Road, Pipardih because the land of the Petitioners falls in the eastern side of the river. However, the Respondent Commissioner, Magadh Division without applying his mind observed that if the Petitioners are not satisfied with the measurement then they can file an Appeal before DCLR.

21. Learned counsel for the petitioners submits that it is evident that none of the authorities could dispute that the land



with area of 3 Acre bearing Plot No. 1900, Khata No. 295 belonged to the Petitioners. It has not been disputed by the Respondents that without any NOC and without any intimation to the Petitioners and without taking recourse to any legal proceeding to deprive the possession of the land of the Petitioners, the Respondents have constructed a Chhath Ghat and a PCC Road on the land but since they have committed the wrong, therefore, all of them have tried to justify their action. They have wrongly done the measurement twice to justify their wrongful act and now again the Respondent Divisional Commissioner has asked the Petitioners to file an Appeal before the DCLR for measurement which shows complete non application of mind. When the Divisional Commissioner was trying to justify the wrongful act on the part of the District Authorities then it is not expected from the DCLR to rectify their wrongs.

22. It is also submitted that admittedly there is no dispute with respect to the right, title and interest of the Petitioners over the land because all the orders passed right from the year 1981 has not been disputed and all have attained finality. Every authority in their report have stated that the District Authorities and Nagar Parishad have constructed a Ghat and a PCC Road on



the part of the land of the Petitioners but the Petitioners have been made to run from pillar to post as the Respondents are neither ready to restore the possession nor to legalize/regularize their act by making payment of compensation of the entire land of the Petitioners on which the Respondents have admittedly constructed a Ghat and a PCC road.

23. Learned counsel for the petitioners further submits that the facts of the present case clearly goes to show arbitrary action on the part of the Respondents to deprive the Petitioners from their rightful possession over the land by taking illegal possession in most arbitrary manner without taking recourse of the provisions of the acquisition of land for the purpose of construction of Road or the Ghat. The Respondents have not paid any compensation to the Petitioners for their land and the Petitioners have been made to run from pillar to post.

24. It is also submitted that the petitioners have learnt that the Respondents are contemplating to construct further road on the remaining area of land belonging to the Petitioners and hence the urgency for passing appropriate order for restraining the Respondents from either making any encroachment and construction over the land by themselves or by permitting encroachment or construction by any other person and thereby



to deprive the right and possession of the Petitioners over their land.

25. It is next added that in the facts of the present case this is a fit case in which this Court may direct the Respondents to either forthwith restore the possession of the land to the Petitioners or if the Respondents want to continue to use the land of the Petitioners than to direct for measurement by an independent Amin or Survey knowing Pleader Commissioner. Since the Respondents have been arbitrarily getting the measurement done, therefore, it will be in the fitness of thing to direct the Respondents to get the measurement done from the side of Piperdih Main Road. After measurement the Respondents must restore the possession of entire area of land belonging to the Petitioners or in case the Respondents want to retain the land for their purpose then to pay compensation of the land belonging to the Petitioners as per the Circle rate. Consequent upon illegal dispossession of land of the Petitioners and its non restoration or non payment of compensation, the fundamental and legal rights guaranteed to the Petitioner under Article 14, 19(1)(g) and 300A of the Constitution of India has been infringed.

26. Learned counsel for the Respondents have submitted



that in view of the order dated 08.01.2020 passed by First appellate authority-cum- Commissioner Magadh Division, Gaya, the petitioners preferred an appeal before DCLR, Aurangabad who after hearing the parties and considering the material on record, passed order dated 04.06.2020 by which he constituted a team of Anchal Amins for measurement of the said land in question and after the measurement, the two amins submitted a measurement report dated 18.06.2020. He further submits that in view of the stand taken by the respondent no. 6 Nagar Parishad, Aurangabad, this Court vide an order dated 16.08.2022 directed the Collector, Aurangabad and Executive Officer, Nagar Parishad, Aurangabad to sit together and sort out the issue and file a supplementary affidavit.

27. It is submitted on behalf of the Respondents that in view of the direction, counter affidavit was filed on behalf of respondent no. 4 to 7 and following statements were made:-

i) Land appertaining to Khata No.- 295, Plot No.-1900 situated in Mauza Shahpur is recorded in C.S. Khatiyani Gair Mazarua Malik and is recorded as renter (Adari Maddi).

ii) In view of Sub Section 100 Bihar Municipal Act, 2007, Chat Ghat and Bricks sole on road has been constructed over the said land and renovated by constructing PCC Road over it by the



Nagar Parishad Aurangabad. The said renovation was under taken by the Nagar Parishad Aurangabad through a valid tender process and no objection was raised by the petitioners while the construction was going on.

iii) During the proceeding of Mutation Case No.-05 of 1983-84, a report was called from the Halka Karamchari and the said Karamchari submitted a report on 10.01.1983 where it was clearly stated that land in question is recorded in C.S. Khatiyani as Gair Majarua Malik and nature of land is recorded as river and at the present (1983) it is existing as a river and the ancestors of petitioners' don't have any possession over it because of it being a river (Adarinaddi). However, ignoring this vital report of Karamchari in Mutation Case No.-05 of 1983-84 the authorities went ahead and created Jamabandi in the name of the petitioners by an order dated 15.04.1986 ignoring the fact that the said land is not in the possession of the petitioners' as it was a river.

iv) That District Magistrate in view of order dated 16.08.2022 constituted a committee of officers look into the matter and submit a report. The Committee submitted the report in which it has been categorically stated that the land in question is not in possession of petitioners' is recorded in C.S. Khatiyani as river, which is a water body and Chhat Ghat and PCC Road has been constructed which is being used by common people for



religious purposes. The revenue receipts does not create title, interest and possession of petitioners over the land in question and as such Circle Officer, Aurangabad is directed to give proposal for cancellation of Jamabandi, which was done absolutely in wrong and illegal manner.

v) It is next submitted that the acquisition of the land for payment of compensation amount to the petitioner for Chhat Ghat and PCC Road is not applicable.

vi) It is submitted on behalf of the Respondents that in compliance of interim order passed in CWJC No.- 9692/2015 revenue and land reform of Bihar issued a direction on 09.05.2017 to all Divisional Commissioner/ District Magistrate of Bihar to remove the encroachment made over water bodies and submit a compliance, report.

28. The mutation of the said land created in favour of petitioners in Mutation Case No.- 5 of 1983-84 by an order dated 15.04.1986 was wrong and illegal because it was against the report of Karamchari called in the said proceedings, who had categorically stated that the said land in question is a river and the petitioner has got no possession over it.

Thus, the zamabandi was created in favour of petitioners is an absolutely wrong and ignoring the report of Karamchari.

29. It is further submitted that from Annexure-4 and



Annexure-5 of the writ application it is clear that way back in 90's when the orders were passed even then this issue was raised that the land in question is river and it is used by general public.

30. Learned counsel for the Respondents submits that it is absolutely clear from the material on record that the land in question is a river, was a river when the mutation was created, it was never in the possession of petitioner's and for decades the said land has been used by the general people of Aurangabad for religious purpose.

31. It is further submitted that the recommendation by the Circle Officer which at present is on hold for cancellation of Zamabandi wrongly created in favour of petitioners in the year, 1986 is justified in view of the submission made above.

32. The Respondents also submit that from the records of the case, it appears that the petitioners got the jamabandi wrongly created inspite of said land being a river, thus, have indulged in fraud and therefore, their jamabandi can be cancelled under the Bihar Land Mutation Act

33. *The Respondents further submit that the Patna High Court and the Hon'ble Supreme Court in various cases have held that there can be no construction over the water bodies and it's a responsibility of the State to ensure that water bodies are*



preserved and not encroach upon.

34. It has been submitted on behalf of the Respondent No. 6 that after due sanction construction of *Chhat Ghat* was made in the year 2010 to 2011 and at the same time, a *Kharanja* Road was also constructed up to the ghat.

35. It is further submitted that at the time of construction of *Chhat Ghat* and road, no objection was made by any one. In year 2017-2018 since *Kharanja* Road was damaged therefore, a PCC Road was constructed.

36. It has also been submitted that from the order passed in Mutation Appeal bearing No-61/86-87 by the DCLR on 11-11-86 at of page no-35 of brief, it is apparent that the land in question is Gairmajura Malik nature river therefore, it is apparent that the nature of the land is Gairmajura Malik nature river.

37. It is next submitted that Circle Officer, Aurangabad vide his letter dated 25/07/2022 communicated to the Respondent No-6 that the land is Gairmajura Malik. It further appears that Mutation has already been made but Raiyatkarana of land in question has not been done as yet. He submits that merely on the strength of Mutation it may not be safe to say that the petitioner is having right, title and possession over the land



in question.

38. It is further submitted that it appears that the petitioner was not in possession of land in question as no objection was made from any corner at the time of construction of *Chhat Ghat* and *Kharanja* road in the year 2010-2011. If in the year 2010-2011 had the petitioners raised the objection, the construction of *ghat* and *kharanja* road would not have been done which has been constructed for the welfare of the general people to perform *Chhat Puja*.

39. Learned counsel for the Respondent No. 6 further submits that the petitioners have brought nothing on the record to show that any objection was raised from any corner at the time of construction of *Chhat Ghat* and road in the year 2010-2011. He submits that the measurement of land as claimed by the petitioners will not change possession, right, title and interest about the land in question.

40. The learned counsel for the parties have been heard.

41. The land in question which is mentioned as Gair Majarua land/khas was settled by the ex-land lord to Mangar Yadav which was already in cultivating possession of Mangar Yadav vide Parvana(Patta) 836 the settlement deed. Thereafter, Mangar Yadav remained in the possession of the land until



1975, his name was also recorded in the Register 2 and he was paying the rent to the State of Bihar.

42. On 21.07.1975, Mangar Yadav sold the land in question through registered sale deed in favour of the grand father of the petitioner no. 2. By order dated 15.04.1986, the Circle officer in Limitation Case No. 05/1983/84 after due enquiry mutated the name of the father of the petitioner No. 2 and entered his name in the tenant register and receipt was issued in favour of Bansnayak Singh, the grandfather of Petitioner No. 2.

43. The order dated 15.04.1886 was challenged in Appeal No. 61/1986-87 which was filed by one Bhichhan Yadav and the appeal was dismissed by the DCLR, Aurangabad vide order dated 11.11.1986 acknowledging the fact that the land was in possession of Mangar Yadav and thereafter, in possession of Bansnayak Singh, continuously since 1944.

44. Thereafter, the Revision Case No. 58/1986-87 filed against the order dated 11.11.1986 and by order dated 26.07.1991, the revision was also dismissed as the revisional Court did not find any legal infirmity in the order of the Circle Officer and the DCLR while passing the order of mutation and possession of Bansnayak Singh.



45. The Mutation Revision Case No. 62/1986 was filed by the State of Bihar against Bansnayak Singh and the same was dismissed by the Additional Collector who also mentioned in the order that the Executive Magistrate has already declared the possession of Bansnayak Singh under Section 145 Cr.P.C. in Case No. 543/76/282/78.

46. On 07.05.2013, Measurement Case No. 01 of 13/14, the land in question was measured and demarcated with specific boundary and it was mentioned that since 21.07.1995 the land in question was in possession of Bansnayak Singh and before him it was Mangar Yadav who was in possession of the land.

47. The Hon'ble Supreme Court in the case of ***Prithi Nath Singh Vs. Suraj Ahir Vs. State of Bihar AIR 1963 SC 1041*** has held as follows:

“Khas possession used with reference to the possession of a proprietor or tenureholder of any land used for agricultural or horticultural purposes means the possession of such proprietor or tenure-holder by cultivating such land or carrying on horticultural operations thereon himself with his own stock or by his own servants or by hired labour or with hired stock.”

48. The Hon'ble Supreme Court has held that if before the date of vesting of the land has been settled and the settlee has remained in possession even on the day of vesting his title has been perfected even on Gairmajarua Malik/Khas land.



49. In the present case, the land was settled in the year 1944 to Mangal Yadav before the date of Vesting and enforcement of Bihar Land Reforms Act, 1950.

50. Therefore, in terms of Section 6 of Bihar Land Reforms Act, 1950, the land in question is not vested in the State of Bihar and the consequence of the said Act will not apply.

51. The title and possession of the settlee through *Parvana* by the ex-landlord followed by recording the rights in tenenats register, the title of settlee has been perfected and it cannot be taken away.

52. The aforesaid argument of learned Senior Counsel for the petitioners has to be accepted in view of the law laid down by the Hon'ble Supreme Court in the case of ***Prithi Nath Singh Vs. Suraj Ahir Vs. State of Bihar (Supra)***.

53. The State cannot be allowed to take the steps for cancellation of Jamabandi with a view to deny the compensation to the land holders. Long standing jamabandi cannot be cancelled and the petitioners should not be evicted without payment of any compensation by the State

54. This Court in the case of ***Harendranath Tiwari Vs State of Bihar 1987 Supp SCC 56*** has held that long



Standing Jamabandi cannot be cancelled by the state by simply doubting the Jamabandi. The State has to file a Civil Suit for cancelling long standing Jamabandi.

55. The State Government has also issued circular vide Memo No. 2013-925 (6) dated 11.11.2014 and has directed the subordinate authorities that if the ex-landlord has issued Registered patta or sada patta and is indicated in his return on or before 1946 and the Government has issued the rent receipt, then the settlee of the successor should be treated as Raiyat.

56. In view of the law laid down by the Hon'ble Supreme Court and this Court, it is clear that the petitioners are in possession of the land and there is long standing jamabandi of more than 50 years and the petitioners cannot be denied compensation of their land by the State by taking steps for cancellation of jamabandi. The State could have taken steps for challenging the Jamabandi of the petitioner by filing a civil suit and no other mode is available to the State to challenge the jamabandi and possession of the petitioners.

57. In these circumstances, the state cannot take forcible possession of the land and deny compensation to the petitioners and the petitioner has right to fair compensation under the ***Right to Fair Compensation and Transparency in***



Land Acquisition, Rehabilitation and Resettlement Act, 2013

and it is directed that the authorities must compensate the petitioner after initiating proceedings for land acquisition under the ***Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act.***

(Sandeep Kumar, J)

Sunnykr/-Saif

AFR/NAFR	AFR
Uploading Date	04.09.2023
Transmission Date	04.09.2023

