

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7777 of 2023

Sanjit Paswan Son of Sri Chhattu Paswan Resident of Village Birgaon ward no. 8, Police Station Mahishi, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Revenue Department, Bihar at Patna.
2. Principal Secretary, Land Revenue Department, Bihar at Patna.
3. Directorate of Land Records and Survey Government of Bihar, through its Director Survey Training Centre Shastrinagar Patna. Email ID directorlrsh@nic.in.
4. District Magistrate, Saharsa.
5. District Survey Settlement Officer, Saharsa.
6. Circle Officer Block office at Mahishi, District- Saharsa.
7. Surya Narayan Sah, Son of Late Nathuni Sah Resident of Village Birgaon, Police Station Mahishi, District- Saharsa.
8. Shiv Sah, Son of Suryanaran Sah Resident of Village Birgaon, Police Station Mahishi, District- Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Advocate
For the Respondent/s : Mr. Ajay, G.A.5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

2 19-06-2023 Heard learned counsel for the petitioner and

learned counsel for the respondents.

The petitioner who claims himself to be a social worker and co-villager of private respondent nos. 7 and 8 has filed the instant application in the nature of a Public Interest for the following reliefs:

“(i) That for issuance of appropriate writ order or direction or writ in the nature of mandamus



commanding the Respondent No.4 & 6 to initiate encroachment proceeding within a time frame & remove the encroachment to Survey Plot No.1528 (new) which was constituted by Plot No.1040 (old), 1373 (old) 1396 (old) & 1533 (old) & Total area of Plot No.1528 (new) is 01 Acre 74 Decimal & the same is Road known as "Dagar" in cadastral Survey record & in actual shape & size too land (trace map prepare by Amin enclosed as Annexure-).

(ii) That for issuance of appropriate writ order or direction or writ in the nature of mandamus commanding the District Magistrate directing holding of an enquiry/investigation into the manner in which Jamabandi was opened by present Circle officer in office in the name of respondent No.7 & 8, & in case it is found that the Jamabandi to Road "dagar" opened in the name of respondent No.7 & 8 by illegal manner while there was no ground to open Jamabandi in favour of respondent No.7 & 8 since there was no previous Jamabandi concerning Survey Plot No.1528 (new) in favour of ancestor of respondent No.7 & 8 as such how a fresh Jamabandi can be opened when the shape & size of land concerning Survey Plot No.1528 (new) which was constituted by Plot No.1040 (old), 1373 (old) 1396 (old) & 1533 (old) stands as Road & previous Circle officer in succession had refused to open Jamabandi & the Government under Block Development officer had allocated Funds for construction of Road on same land as such how the Jamabandi can be opened in the name of



respondent No.7 & 8 as such direction may kindly given to respondent holding of an enquiry/investigation into the manner in which Jamabandi was opened by present Circle officer in office in the name of respondent No.7 & 8, & in case it is found that the Jamabandi to Road "dagar" opened in the name of respondent No.7 & 8 by illegal manner then the same Jamabandi be directed to cancel immediately & suitable action should be initiated action against the respondent No.6.

(iii) That envisaging the scale of corruption in opening Jamabandi when Jamabandi to public Road "dagar" opened by Circle officer itself in the name of private person as such District Magistrate be directed to Register Criminal Case & departmental proceeding against the responsible who instead oblige to protect the Government property & road as a responsible officer, opened Jamabandi by illegal manner as such serious action should be initiated against the responsible Circle officer & Halka Karamchari.

(iv) That for grant of any other relief or relief's to which the petitioner be found entitled in law be granted to them."

Having perused the materials on record, the averments made in the writ application and the prayer made as quoted hereinabove, in the opinion of this Court the petitioner is aggrieved by opening of Jamabandi in the name of private respondent nos. 7 and 8 with respect to the land in question which according to the petitioner was a public road.



In view of the above, in the opinion of the Court, the remedy available to the petitioner was to file an appropriate application before the authority concerned for cancellation of Jamabandi of the private respondents under the Bihar Land Mutation Act, 2011 and/or to move for removal of encroachment by filing an application under the Bihar Public Land Encroachment Act, 1956.

In no case would the instant Public Interest Litigation filed by the petitioner be maintainable. The instant application is dismissed with liberty to the petitioner to file an appropriate application, if so advised, which if filed, shall be decided by the authority concerned in accordance with law after hearing all the parties concerned.

It may be clarified that this Court by passing the above order has not entered into the merits of the case of the petitioner, none of the observation made hereinabove should be construed as such and any application filed by the petitioner shall be considered by the authority concerned on its own merits.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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