

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6897 of 2020

1. Premshila Wife of Late Yogeshwar Rai, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
2. Harivansh Sahni, Son of Late Musai Sahni, Resident of Village Kursaha Samastipur.
3. Marni Devi, Wife of Pramod Rai, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
4. Shiv Narayan Sharma, Son of Ram Karan Sharma, Resident of 34-A, Press Enclave, Part 3, Gali No. 13, Vikas Nagar, Uttam Nagar, West Delhi.
5. Singheshwar Paswan, Son of Late Bija Paswan, Resident of Aslampur Badiya, District-Samastipur.
6. Ashok Paswan, Son of Late Ganga Paswan, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
7. Mushlim Miya, Son of Late Suleman Miyan, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
8. Shankar Ram, Son of Late Yadu Mochi, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
9. Kameshwar Das, Son of Late Lau Das, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
10. Dhamma Mochi alias Ghamandi Mochi, Son of Late Chalittar Mochi, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
11. Uman Das, Son of Late Nirsan Das, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
12. Uman Das, Son of Late Nirsan Das, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
13. Dhuriya Devi, Wife of Devendra Ray, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
14. Pawan Kumar, Son of Tekan Paswan, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.
15. Yogendra Ram, Son of Late Duklarchand Ram, Resident of Village Kursaha, P.O. Moinuddin Nagar, District Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Land Reforms Department, Govt. of Bihar, Old Secretariat Building, Patna.
3. The District Magistrate, Samastipur.
4. The S.D.O., Patori, Samastipur.
5. The D.C.L.R., Moinudding Nagar, Samastipur.



6. The Circle Officer, Moinuddin Nagar, Samastipur.
7. The Chairman, Bihar Bhoodan Yagana Committee-cum-Member Board of Revenue, Patna.
8. The Office Secretary, District Bhoodan Yagana Committee, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jai Vardhan Narayan
For the Respondent/s	:	Mr. Khurshid Alam AAG
For the Bhoodan	:	Mrs. Alka Verma

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 31-07-2023

1. By way of this writ petition, the petitioners have prayed for the following reliefs:-

a.) For issuance of directions / order or writ in the nature of mandamus directing the Respondents to forthwith return back the land of the petitioners who have been granted land by the Bihar Bhoodan Yagna Committee by issuance of respective Parman Patras situated at Village Kursaha appertaining to Khata No. 280, Khesra No. 1824, Thana No. 197, Pargana Balagachch, Revenue Thana- Dalsinghsarai, District-Darbhanga which have been forcibly and illegally captured for renovation and beautification of the area under the Jal Jivan Hariyali Programme by the Executive Engineer, Minor Irrigation Division, Samastipur vide letter dated 19.12.2019 and a general notice to that effect has been issued by the Circle Officer, Moinuddin Nagar, Samastipur whereby and whereunder



all the Praman Patra holders were made aware to submit their Praman Patras and evidences so that their claim can be considered on the land in question.

b.) For issuance of directions / order or writ in the nature of mandamus directing the respondents to forthwith stop the ongoing renovation and beautification work which is being done by the Respondents over the land of the petitioners under the Jal Jivan Hariyali Programme.

c.) For any other relief or reliefs for which the petitioners may be deemed entitled to.

2. The short facts of the case, as stated in the writ petition are that the land in question was donated by one Kedar Nath Mahta to the Bhudan Yagna Committee in the year 1954, which was confirmed by the Competent Revenue Authority. It is the case of the petitioners that the land in question was granted to the ancestors of the petitioners by way of issuing Praman Patras in their favour for cultivation as they were landless. On 09.10.1986 the Circle Officer, Moinuddin Nagar, Samastipur passed an order directing the concerned Officers to mutate the names of the petitioners and collect the rent from the date of creation of Jamabandi. Thereafter, the petitioners have been regularly paying the rent to the State Government. The Circle



Officer, Moinuddin Nagar, Samastipur issued a General Notice dated 23.12.2019 informing the public about the renovation and beautification work under the Jal Jiwan Hariyali Programme which is going to be executed by the Executive Engineer, Minor Irrigation Division, Samastipur at Mauza Khursaha. In the said notice, direction was issued to all the Parcha Holders to submit their Parcha along with other evidence in support of their claims by 25.12.2019 so that their claims may be considered and in case, nothing is submitted by any claimant then it will be deemed that there is no claim on his/her behalf. On 24.05.2020 Anchal Amin measured the land in question and submitted a report in accordance with his measurement. On 26.05.2020 the petitioners submitted a representation before the S.D.O, Patori, Samastipur and Circle Officer, Moinuddin Nagar, Samastipur regarding the illegal measurement done by the Anchal Amin without considering the grounds of the petitioners but the same is still pending. Hence, this writ petition.

3. Learned Counsel for the petitioners submits that the land of the petitioners have forcibly and illegally been captured by the respondents for the renovation and beautification of the land under Jal Jiwan Hariyali Programme and the petitioners are the owners of the land as they have



received the same from their ancestors.

4. Learned counsel for the petitioners further submits that the scheme of Jal Jivan Hariyali Programme being executed by the respondents is arbitrary and illegal as the Bhoodan Tenants cannot be thrown out from the land without being properly rehabilitated or without giving adequate compensation by adopting the land acquisition proceeding in accordance with law.

5. Learned counsel for the petitioners further submits that the petitioners are rightful owners of the land and they are not someone claiming the land illegally and in support of his submission he relies on the order passed on 09.10.1986 passed by the then Circle Officer, Moinuddin Nagar whereby the Circle Officer directed to mutate the name of the petitioners by creating Jamabandi in their names.

6. He further submits that claim of the petitioners may be considered as they have been in long standing possession of the land due to which they have been able to survive themselves which is the only source of livelihood for them.

7. He further submits that the respondents acquired the land without following the due process of law and have



acted maliciously in dispossessing the petitioners from their land, which cannot be justified in the eye of law. He further submits that the Anchal Amin in collusion with local contractors, without informing the petitioners came on the land of the petitioners and did the measurement and submitted his report. In this regard, the petitioners have also filed a representation before the S.D.O, Patori, Samastipur and Circle Officer, Moinuddin Nagar, but the same is still pending.

8. He further argues that if in the revisional survey of 1969-70 the land is marked as the bank of the river and comes under Sairat then how can the Circle Officer, Moinuddin Nagar passed the order dated 09.10.1986 asking the officer concerned to mutate the name of the petitioners and create the Jamabandi.

9. Lastly, learned counsel for the petitioners has drawn the attention of this Court to the Counter Affidavit filed by the Committee whereby the Committee had also stated that it is the petitioners who are the true owners of the land and their ancestors were duly granted Praman Patras for the land in question.

10. Learned AAG appearing for the State has denied all the allegations levelled by the petitioners and submits that the land in question never belonged to the petitioners and



after the petitioners gave a representation to S.D.O, Patori, Samastipur and Circle Officer, Moinuddin Nagar the Circle Officer directed the Anchal Amin to conduct proper measurement of the land and submit his report.

11. Learned counsel for the State has taken this Court to the report of Anchal Amin, in which it has been mentioned that in Revisional Survey, the land in quesiton has been mentioned as Bihar Sarkar River (Nadi) land vide R.S.P No. 2995 (corresponding to C.S.P No. 1824) and hence, R.S.P No. 2995 is carved out from C.S.P No. 1824 measuring an area of about 42 Bigha.

12. Learned AAG for the State further submits that the geographical location of the land in question is that the land is at the bank of the River and therefore it comes under Sairat .

13. He further submits that on the land in question, several structures i.e. MANREGA Bhawan, Anganbari Centre and slide gate of river are existing there since long.

14. Learned Counsel for the State further submits that neither the ancestors of the petitioners nor the petitioners filed any suit against the Revisional Survey of 1969-70 nor any objection was raised by the petitioners while the structures were being constructed. He further submits that the land in question



has always been a Government land and the ex-landlord had illegally donated the land to the Committee and the Praman Patras issued by the Committee to the ancestors of the petitioners is also against the public as well as Government interest.

15. Learned AAG sums up his argument by saying that a Public Welfare Project is also being carried out on the land and in that regard 4 ponds are under construction which will help in the upliftment of the area, therefore, the claim of the petitioners may not be entertained.

16. Learned counsel for the Respondent No. 07 and 08 has supported the case of the petitioners and have submitted that the land was donated, as has been claimed by the petitioners, and they have supported the grant of land by Committee to the petitioners and they have also brought on record the confirmation register and the Praman Patra Panji which has been annexed in the counter affidavit.

17. I have heard the learned counsel for the petitioners, learned AAG for the State and the learned counsel appearing for the Bihar Bhoodan Yagna Committee.

18. From the case of the petitioners, it appears that they have claimed the land in question as having been given to



them by the Committee and they have brought on record the documents which are of unimpeachable nature and they are the rightful owners of the land in question. The State is trying to dispossess the petitioners from the land in question without initiating any proceeding against the petitioners. Once the petitioners have produced the Praman Patra of the land in question, they cannot be dispossessed by the State Authorities by claiming that the land is going to be used for the purpose of renovation and beautification of the area under Jal Jivan Hariyali Program by way of general notice.

19. Prima facie, it appears that the petitioners are the owners of the land as the same has been granted to them by the Committee and therefore it is directed that if the State wanted to remove the petitioners from the land in question then they ought to have initiated an action in accordance with law by giving individual notices to all of them.

20. Without initiating any proceeding, by way of issuance of general notice, the exercise of removing the petitioners is illegal and cannot be sustained. The action of the State for forcibly capturing the land of the petitioners without initiation of proper proceeding is held to be illegal and the State authorities are directed to return the land of the petitioners or



acquire the same in accordance with law. If the State wants to claim the land of the petitioners, they can initiate an appropriate proceeding against each land holder and after hearing the parties they can claim the land of the petitioners.

21. With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

Vikas/-

AFR/NAFR	NAFR
CAV DATE	22.06.2022
Uploading Date	31.07.2023
Transmission Date	

