

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7792 of 2022

=====

Deo Nandan Prasad S/o Late Mogali Gope, Resident of Ganjpar, P.O.- Tungi,
P.S.- Deepnagar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Nalanda.
2. The Deputy Collector Land Reforms, Biharsharif, Nalanda.
3. The Block Development Officer, Biharsharif, Nalanda.
4. The Sub- Divisional Officer, Biharsharif, Nalanda.
5. The Child Development Project Officer, Nalanda.
6. The Circle Officer, Biharsharif, Nalanda.
7. The Municipal Commissioner, Municipal Corporation, Biharsharif, Nalanda.
8. Manoj Pandit, the then Circle Officer, Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Advocate.
For the Respondent/s : Mr.Sajid Salim Khan, SC-25.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 23-01-2023 Heard Mr. Surendra Kishore Thakur, learned counsel

 appearing on behalf of the petitioner and Mr. Sajid Salim Khan,

 learned SC-25 for the State.

In the present writ petition, the petitioner has prayed

for the following reliefs:

(1) For issuance of writ in the appropriate nature
for quashing of the office order contained in Memo No. 77
dated 28.01.2022 whereby the Sub-Divisional Officer,
Biharsharif, Nalanda has issued a letter appointing a
Magistrate for removal of encroachment and for vacating
the land in question bearing Khata No. 153 Plot No. 1143
without considering that no encroachment proceeding was
initiated, no notice inviting show cause was issued nor till
date Jamabandi standing in the name of the petitioner has
been cancelled and taking the law in their hand trying to



take possession evicting the petitioner from the land in question.

(ii) For further direction to the Respondent authorities not to dispossess the petitioner from the land in question without following the rules or cancelling the Jamabandi standing more than decades.

(iii) For further direction to the Respondent authorities to dispose of the representation of the petitioner by reasoned and speaking order giving an opportunity of personal hearing within time framed.

(iv) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.

On 02.11.2022 in C.W.J.C. No. 4013 of 2022, a coordinate Bench of this Court had passed the following order:

“The present writ petition has been filed seeking the following reliefs:-

"1(i) For issuance of writ in the appropriate nature for quashing of the office order contained in Memo No. 77 dated 28.01.2022 whereby the Sub- Divisional Officer, Biharsharif, Nalanda has issued a letter appointing a Magistrate for removal of encroachment and for vacating the land in question bearing Khata No. 153 Plot No. 1143 without considering that no encroachment proceeding was initiated, no notice inviting show cause was issued nor till date Jamabandi standing in the name of the petitioner has been cancelled and taking the law in their hand trying to take possession evicting the petitioner from the land in question

(ii) For further direction to the Respondent authorities not to dispossess the petitioner from the land in question without following the rules or cancelling the Jamabandi standing more than decades.

(iii) For further direction to the Respondent authorities to dispose of the representation of the petitioner by reasoned and speaking order giving an opportunity of personal hearing within time framed."

At the outset, the learned counsel appearing for the respondent-State, by referring to the counter affidavit filed in the present case, has submitted that a jamabandi cancellation proceeding vide Jamabandi Cancellation Case No. 97 of 2022 is pending adjudication before the



Additional Collector, Nalanda, qua the petitioner herein, however since the same has neither been taken to its logical conclusion nor any final order has been passed till date, the respondents, at the moment, do not propose to disturb the petitioner from the land in his possession, admeasuring 0.45 decimals.

In such view of the matter, this Court finds that the aforesaid order dated 28.01.2022 issued by the Sub-Divisional Officer, Biharsharif, Nalanda stands redundant qua the petitioner herein.

It is needless to state that any action to be taken by the respondent-State shall be taken in accordance with law, subject to the outcome of the jamabandi cancellation proceedings.

The writ petition stands disposed off on the aforesaid terms.”

Learned counsel appearing on behalf of the petitioner submitted that the petitioner must be given equal treatment in light of the order passed in C.W.J.C. No. 4013 of 2022 by providing him opportunity of hearing in Jamabandi Cancellation Proceeding No. 06/22. Till then, the order contained in Memo No. 77 dated 28.01.2022 passed by the Sub-Divisional Officer, Biharsharif, Nalanda which is pre-decisional in nature should not be given any effect.

Mr. Sajid Salim Khan, learned counsel appearing on behalf of the State raised no objection.

Accordingly, in terms of the order passed in C.W.J.C. No. 4013 of 2022, the present writ petition is disposed of.

The Deputy Collector Land Reforms, Biharsharif, Nalanda before whom Jamabandi Cancellation Case No. 06/22



is pending must not be influenced by the order contained in
Memo No. 77 dated 28.01.2022 issued by the Sub-Divisional
Officer, Biharsharif, Nalanda.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

