

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.794 of 2021

Arising Out of PS. Case No.-112 Year-2021 Thana- KATORIYA District- Banka

=====

ABHIMANYU PRASAD SINGH S/O LATE JASWANT SINGH R/O
VILLAGE-KATORIA, PO AND PS -KATORIA, DISTRICT-BANKA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, BIHAR PATNA. BIHAR
2. THE HOME SECRETARY, GOVT. OF BIHAR, PATNA. PATNA.
3. THE DIRECTOR GENERAL OF POLICE BIHAR, PATNA PATNA.
4. THE PRINCIPAL SECRETARY,REVENUE DEPTT., GOVT. OF BIHAR, PATNA. PATNA.
5. THE DIVISIONAL COMMISSIONER BHAGALPUR. BHAGALPUR.
6. THE DIG BHAGALPUR. BHAGALPUR.
7. THE DISTRICT MAGISTRATE BANKA, DISTRICT BANKA. BANKA
8. MR. SOHARSH BHAGAT S/O NAME NOT KNOWN I.A.S., DISTRICT MAGISTRATE BANKA, DISTRICT BANKA.
9. THE SUPERINTENDENT OF POLICE BANKA, DISTRICT BANKA BANKA
10. MR. AJAY KUMAR S/O NOT KNOWN SENIOR DY.COLLECTOR BANKA, DISTRICT BANKA
11. MR. SANJAY KUMAR S/O NAME NOT KNOWN DY. S.P. BANKA, DISTRICT BANKA
12. MR. BIMAL KUMAR S/O NAME NOT KNOWN SETTLEMENT OFFICER BANKA, DISTRICT BANKA
13. THE OFFICER-IN-CHARGE KATORIA P.S. KATORIA, DISTRICT BANKA BANKA
14. MR. SAGAR PRASAD S/O FATHERS NAME NOT KNOWN CIRCLE OFFICER KATORIA, DISTRICT BANKA

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar
For the Respondent/s : Mr. Khursid Alam, Aag 12

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
C.A.V.

Date : 17-08-2023



The petitioner has filed the present writ application for quashing of seizure list, dated 16-06-2021, prepared by the Circle Officer, Katoria, and subsequent notice, dated 23-06-2021, issued by the Circle Officer, Katoria. It has further been prayed for restraining the District Magistrate, Banka, as well as the Circle Officer, Katoria, from proceeding further pursuant to the notice, dated 23-06-2021, as contained in letter no. 607 and for a direction to the State to compensate the petitioner for illegal act committed by the respondents. The petitioner has further prayed for release of the documents seized on 16-06-2021 in his favour.

2. The petitioner approached this Court with the facts that his ancestor, Late Thakur Jaswant, was the recorded zamindar prior to vesting of zamindari in the State of Bihar. After vesting of zamindari, the petitioner submitted the return to the State of Bihar. The son of the petitioner is a businessman, dealing in tyres. During the assembly election, some politicians demanded contribution (donation) from the son of the petitioner, which was refused by him. Then, he was threatened of dire consequences. The son of the petitioner was harassed at the behest of the politicians and a case, under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was registered against him and a theft was also committed in his shop. The son of the



petitioner was granted bail in the case lodged against him under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Then, the District Magistrate, Banka, in connivance with the District Transport Officer, Banka, lodged Katoria Police Station Case No.112 of 2021 against the son of the petitioner, alleging therein that he was facilitating fake passes to overloaded trucks and vehicles, loaded with red sand and ballast stone by demanding money. The son of the petitioner was granted bail in the aforesaid case, on 07-06-2021. Suddenly, on 16.06.2021, 50 police personal, along with respondent nos.10 to 14, surrounded the house of the petitioner, raided the same and took away certain documents/papers relating to lands, including the zamindari receipts. A copy of the seizure list was handed over to the family members of the petitioner, which is annexed as Annexure P/3 to this writ application.

3. On 23-06-2021, the respondent No.14, the Circle Officer Kotaria, vide letter No.607, issued show cause to the petitioner and his son, regarding the source and genuineness of the documents, seized by the Circle Officer on 16-06-2021.

4. Learned Counsel for the petitioner submits that the house wherein the members of the petitioners family, including the lady members of the family, reside, was raided by the respondent



authorities after sunset and that too without any warrant and in absence of any lady police officer. The Act of the respondents is contrary to law and violates the human rights as well as provisions of the Constitution of India. No incriminating article was seized. Further, the personal documents seized during the raid are not forged. The allegation of creating fake documents upon the son of the petitioner is baseless inasmuch as no private person can create any jamabandi in the government register. There is no basis of the allegation that the documents seized are incriminating. The seizure has been done two months prior to the lodging of the First Information Report inasmuch as the seizure is dated 16-06-2021 and First Information Report has been lodged on 23-08-2021. He further contends that the Circle Officer has no jurisdiction to seize the documents, in question.

5. On the other hand, learned Counsel for the State respondents argued that a public complaint was filed by the nearby villagers that during the land survey operation in the Katori circle, the son of the petitioner was providing fake documents of land to anti-social elements, leading to blood shed in the locality. It has further been submitted that the son of the petitioner by filing false documents, created new jamabandi after manipulating the government record of rights. After receiving such complaints, the



District Magistrate, Banka directed the Public Grievance Cell to enquire into the matter and in pursuant thereof, a joint enquiry team was constituted, which raided the house of the petitioner, from where fake hukumnama and other documents were recovered and thereafter on the basis of letter no.1311, dated 09-08-2021, issued by the District Magistrate Banka, Katoria Police Station Case No. 214 of 2021, under Sections 420/467/468/471353/120-B of the Indian Penal Code was instituted on 23-08-2021 against the son of the petitioner and charge sheet has also been submitted in the said case on 25-10-2021.

6. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.

7. The controversy involved in this case is with regard to alleged illegal seizure of documents from the house of the petitioner by a team constituted by the District Magistrate Banka, which includes Circle Officer, Katoria, prior to the lodging of the First Information Report. The prayer of the petitioner is to declare the seizure as illegal and to return the seized documents in his favour.

8. After going through the counter affidavit filed on behalf of the State respondents and the First information Report of



Katoria Police Station Case No. 214 of 2021, it appears that the District Magistrate, Banka, received public complaints regarding the fake land documents being prepared and provided by the petitioner to the unscrupulous persons of the locality, where the land survey operation was going, which led to untoward incident and further that the son of the petitioner after preparing the fake return for the purpose of creation of new jamabandi was providing the same to anti-social element and by interpolation in the government records of right, causing damage to the property, which was against the interest of the member of the general public. Upon such information, the District Magistrate Banka, constituted a four-member committee to enquire into the matter. The committee, upon enquiry and under the direction of the District Magistrate, seized the documents, in question, furnished a copy of the seizure list to the family members of the petitioner and subsequently, lodged First Information Report against the son of the petitioner, stating therein that the four-member committee constituted under the direction of the District Magistrate seized fake document of hukumnama and other documents relating to revenue of the land and submitted it to the concerned police station. The Circle Officer appears to have issued notice to the petitioner also calling his explanation regarding the source and



genuineness of the seized documents, vide letter no. 607, dated 23-06-2021 and after having come to the conclusion that the reply to the show cause submitted by the petitioner is not satisfactory, lodged Katoria Police Station Case No. 214 of 2021, on 23-08-2021.

9. Upon going through the entire facts, in its totality, this Court has gathered impression that the District Magistrate on the basis of certain materials by way of public complaints and otherwise have reason to believe that the petitioner and/or his son was indulged in manipulating and/or preparing fake revenue records parallel to the records of the government, constituted a team for enquiry and the enquiry committee, during the course of the enquiry, has collected/seized certain documents pertaining to land from the house of the petitioner.

10. Section 94 of the Code of Criminal Procedure, 1973, empowers a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, to seize and take possession of the objectionable article, which includes forged documents also.

11. It is not in dispute that after seizure of the documents by the Circle Officer, Katoria, he has submitted it before the concerned police station and subsequently First Information



Report has been lodged by the Circle Officer, bearing Katoria Police Station Case No. 214 of 2021. The authenticity and genuineness of the documents seized can only be decided during the course of trial based upon the materials produced by the prosecution.

12. Accordingly, in my opinion, release of the documents seized on 16-06-2021 at this stage shall not meet the ends of justice.

13. In the result, this application is dismissed.

14. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	31-07-2023
Uploading Date	17-08-2023
Transmission Date	17-08-2023

