

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9177 of 2022

1. Praween Kumar Singh
2. Prashant Kumar Singh
Both sons of Late Shyam Nandan Prasad Singh Resident of Marwari
High School Road, Lalbagh, P.S.- Town, District- Darbhanga- 846004.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Darbhanga.
4. The Additional Collector, Darbhanga.
5. The Deputy Collector Land Reforms, Darbhanga.
6. The Circle Officer, Darbhanga Sadar, Darbhanga.
7. The Circle Inspector, Darbhanga Sadar, Darbhanga.
8. Revenue Karmachari, Halka No. 6, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Senior Advocate
Mr. Shivam
For the Respondent/s : Mr. Sajid Salim Khan (Sc25)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 21-12-2023

Heard the parties.

2. The present application has been filed for quashing the order dated 11.05.2022 passed by the Circle Officer, Darbhanga Sadar, in Mutation Case No. 1175-R27/2022-23/ Darbhanga whereby he has rejected the application filed by the petitioners for mutation of 9.82 decimals of land of Plot No. 294 (new)/120(old) under Khata No. 74 (new)/294(old) at Mauza



Beladullah P.S.- Sadar, District-Darbhanga on the ground that the land in question is Gair Mazarua Khas, mutation of which is not permitted.

3. The fact of the case are as follows:-

4. The families of Late Jagdish Prasad @ Jagdish Prasad Singh were the recorded owners of many lands including 9.82 decimals of land of aforementioned Plot No. 294 (new)/120(old) under Khata No. 74 (new)/294(old) at Mauza Beladullah, P.S.- Sadar, District Darbhanga. After vesting of Zamindari, the land in question being in the khas possession of the landlord was settled with him in terms of the provisions of Bihar Land Reforms Act. Consequently, rent receipts in respect to the said land was being issued in the name of Jagdish Prasad Singh @ Jagdish Prasad.

5. In the Revisional Survey Khatian, the recorded owner Jagdish Prasad Singh was shown to be raiyat in respect to different lands including land of Plot No. 294 under Khata No. 74 at Mauza Beladullah. Even in the copy of the Khatian which has been uploaded and is available on the website of the Revenue and Land Reforms Department, Government of Bihar, the aforesaid Plot No. 294 has been shown to be Dhanhar-II and also described as Kaymi which means that it is raiyati land.



6. After death of the recorded owner Late Jagdish Prasad Singh, his son Ranjit Prasad executed sale deed on 1.2.2007 in respect to the land in question in favour of Arun Kumar Singh, Anjani Kumar Singh, Arbind Prasad Singh and Navin Prasad Singh. The new purchasers got their names mutated in the revenue records of the State Government whereafter rent receipts started being issued in their names treating the land to be raiyati in nature.

7. It may be mentioned here itself that though in the rent receipt, old Plot No. 120 has been mentioned but instead of old Khata No. 294, erroneously old Khata No. 204 has been mentioned which evidently is a typographical error. The petitioners purchased the land in question from Arun Kumar Singh, Anjani Kumar Singh, Arbind Kumar Singh and Navin Prasad Singh by registered sale deed dated 28.1.2022 for valuable consideration. It may be pointed out that as per prevailing practice, an officer of the Registration Department visited the spot and made an endorsement on the deed that on local inspection, the land in question appears to be of residential category. Initially registration charges of Rs. 49,500/- was realized from the petitioners by the office of the Sub-Registrar, Darbhanga treating the value of the property to be Rs.



2,25,000/- on the basis of nature of land being Residential and Parti but later on in view the report submitted by the District Sub-Registrar, Darbhanga proceeding i.e. Stamp Valuation Case No. 27/2021-22 was initiated against the petitioners. The Assistant Inspector General of Registration, Darbhanga Division vide order dated 2.3.2022 held that the land in question was residential one and the total value of the property was Rs. 21,71,000/- for which Stamp duty of Rs. 1,30,260/- was payable. It was further ordered that after deducting Rs. 49,500/- which has been paid by the petitioners earlier by way of stamp duty, they should deposit further stamp duty of Rs. 80760/-. The petitioners thereafter deposited the said amount and only thereafter registration was completed and registered sale deed dated 28.1.2022 was handed over to them.

8. The respondents in their counter affidavit vide paragraph No.6 thereof have taken the stand that as per report of the Karmachari, land in question was Gair Mazarua Khas and the nature of the land is Nasi. They also denied that the land came in possession of original landlord Jagdish Prasad and asserted that no rent receipt was issued in his favour. Further statement was made that a proposal for cancellation of Jamabandi No. 912 has been forwarded to the Additional



Collector on 11.8.2022.

9. The petitioners filed a rejoinder to the aforesaid counter affidavit pointing out that the nature of land has changed to raiyati which would be evidenced from the new khatian available on the website of the Revenue and Land Reforms Department as also the order passed in the Stamp Valuation Case by Assistant Inspector General of Registration on 2.3.2022.

10. Learned counsel appearing on behalf of the petitioners has submitted that the family of Late Jagdish Prasad @ Jagdish Prasad Singh were the recorded owners of many lands including 9.82 decimals of land of Plot No. 294 (new)/120(old) under Khata No. 74 (new)/294(old) at Mauza Beladulla, P.S.- Sadar, District- Darbhanga.

11. He further submitted that originally the land was or may have been classified as Gair Mazarua Khas. Here itself, it is relevant to point out that the definition of Gair Mazarua as given in the glossary of revenue terms is that it is uncultivated/parti land while Gair Mazarua Aam land is such land which are used by people in general mostly as pasturage etc. Insofar as Gair Mazarua Khas or Gair Mazarua Malik land is concerned, such land which at that time was uncultivable land but was in



possession of the landlord.

12. It is submitted that the land is in possession of the landlord i.e. the ex-intermediary which was in his or her khas possession was deemed to have been settled with the landlord who after vesting of zamindari became the raiyat thereof in terms of the provisions of Bihar Land Reforms Act, 1950.

13. Learned counsel for the petitioners next submitted that the land which is the subject matter of the present writ proceeding also by passage of time started being cultivated by the Ex-landlord and his successors in interest. The rent receipts in respect to the said land was being issued in the name of Jagdish Prasad Singh @ Jagdish Prasad.

14. It is also submitted that the State of Bihar accepted the rent in respect to the land in question from the recorded owner which clearly demonstrates and evidences that he was treated to be raiyat in respect to the land in question and the land was also treated to be cultivable land.

15. He submitted that it is also relevant to mention that in the revisional survey khatian, the recorded owner Jagdish Prasad Singh was shown to be raiyat in respect to different lands including the land of Plot No. 294 under Khata No. 74 of Mauza Beladullah. It is stated that certified copy of the khatian was



issued by the Settlement Officer, Darbhanga, Samastipur and Madhubani to Sri Jagdish Prasad Singh on 26.3.2001. However, to the best of the information and knowledge of the petitioners, the revisional survey operations took place around the year 1970.

16. It is next submitted that after the death of the recorded owner Late Jagdish Prasad Singh, his son Ranjit Prasad executed a sale deed on 1.2.2007 in respect to the land in question that is to say 9.82 decimals of land of Plot No. 294(new)/120(old) under Khata No. 74 (new/294 (old) at Mauza Beladullah, District- Darbhanga for valuable consideration in favour of Arun Kumar Singh, Anjani Kumar Singh, Arvind Prasad Singh and Navin Prasad Singh.

17. Learned counsel for the State has opposed the writ petition and has reiterated the stand of the State that the nature of the land is Gair Mazarua Khas Malik and the same is Nasi.

18. I have considered the submissions of the parties.

19. The land in question was Gair Mazarua Khas initially and the nature of the land has changed over the passage of time and the same is being treated as Raiyati land since more than fifty years which is apparent from the documents of the State Government i.e., Khatian issued in favour of Jagdish Prasad



Singh and the Khatiyani available on the website of the Revenue and Land Reforms Department.

20. The rent receipts were also issued in favour of Jagdish Prasad Singh with respect to the land in question and therefore, the purchasers were also issued the rent receipts who had purchased the land from son of Jagdish Prasad Singh. The land has been mutated in favour of the predecessors treating the land to be Raiyati Land. The authorities cannot go against their own revenue records maintained by the State Government saying that the land in question was Gair Mazara Khas though the documents say otherwise. The Khatiyans and the rent receipts etc. also support the case of the petitioner. Therefore, the impugned order dated 11.05.2022 passed by the Circle Officer, Darbhanga Sadar, in Mutation Case No. 1175-R27/2022-23/ Darbhanga is held to be illegal and the same is quashed.

21. The stand of the State that proposal for cancellation of jamabandi No. 912 has been forwarded to the Additional Collector on 11.08.2022 is fit to be countenanced because it has repeatedly been held by this Court that long standing jamabandi cannot be cancelled by the revenue authorities. In order to get the jamabandi cancelled, the State Government would have to file a civil suit. Reference in this regard may be made to the decisions made by this Court in a similar case vide judgment and order dated 13.09.2022 passed in C.W.J.C. No. 16985 of 2018 (*Nathuni Singh and Others vs. the State of Bihar and Others*).

22. The Circle Officer, Darbhanga Sadar, is directed to mutate the names of the petitioners in respect of the land in question on the basis of the sale deed dated 28.01.2022 within



one month from the date of receipt/communication of a copy of this order.

23. Accordingly, this application is allowed.

(Sandeep Kumar, J)

Saif/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.01.2024
Transmission Date	N.A.

