

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15748 of 2022

1. Mahendra Sah S/o Late Nawal Sah, Resident of Village- Beldarba, P.S. Aadapur, Dist. East Champaran.
2. Radhika Sah @ Radhika Devi W/o Mahendra Sah, Resident of Village- Beldarba, P.S. Aadapur, Dist. East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department, Old Secretariat, Patna, Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The In-Charge Commissioner, Tirhut Division, Muzaffarpur.
4. The Collector-cum-District Magistrate, East Champaran, Motihari.
5. The Addl. Collector, East Champaran, Motihari.
6. The Land Reforms Deputy Collector, East Champaran, Motihari.
7. The Circle Officer, Aadapur, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam (AAG 12)

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 12-05-2023 1. Heard learned counsel for the petitioners and
learned counsel for the State.

2. The petitioners have filed the instant application
for the following reliefs:-

“That the present writ application is being filed by the above named petitioner in the nature of certiorari for challenging the order dated 15.06.2022 passed in Jamabandi Cancellation case No. 12/2018-19 whereby and whereunder the Collector cum-District Magistrate, East Champaran, Motihari was please to



cancelled the Bandobasti No.02/1992-93 in favour of petitioner No.1 and 127/1993-94 in favour of petitioner No.2 were cancelled on the basis of Memo of inspection dated 13.2.2017 showing the part of the nature of land is still Gaddha.

And/or

Issued a direction to the Respondent No.3 to consider and disposed of the appeal preferred by the petitioners 15.6.2022 passed Magistrate, East against order by Collector-cum-District Champaran, Motihari in Bandobasti Cancellation Case No. 12/2018-19. ”

3. The case of the petitioners in brief is that the land in question measuring an area of 13 decimal appertaining to plot no. 451, khata no. 107 in Mauza Beldarba, Thana no. 94 was settled in favour of the petitioners sometime in the year 1998 vide Parwana as contained in Annexure-2 issued under the signature of the Circle Officer, Aadapur, Motihari.

4. Learned counsel for the petitioners submits that pursuant to the same the said settlement, Jamabandi was opened in the petitioners' name. The petitioners started to pay rent and was being granted rent receipts. Some of the rent receipts have been brought on record. However, the petitioners were recently surprised on passing of order dated 15.6.2022 in Jamabandi



Cancellation Case no. 12 of 2018-19 as contained in Annexure-2 whereby on the orders passed by the Collector – cum – District Magistrate, East Champaran at Motihari the Bandobasti of the petitioners was cancelled.

5. Learned counsel for the petitioners submits that against the order dated 15.6.2022 Bandobasti Appeal Case no. 192 of 2022 has been preferred by the petitioners before the learned Commissioner, Tirhut Division, Muzaffarpur and as the said office was vacant and no order was being passed in the appeal filed by the petitioners hence the petitioners have filed the instant application for the relief stated hereinabove.

6. It is submitted that now the office of the Commissioner, Tirhut Division, Muzaffarpur, has been occupied.

7. Having heard learned counsel for the parties, it is directed that the Commissioner, Tirhut Division, Muzaffarpur, (respondent no. 2) shall take up the appeal (Bandobasti Appeal Case no. 192 of 2022) filed by the petitioners, proceed in accordance with law and decide the same at the earliest preferably within a period of six months from date of communication of this order.

8. It is further submitted by learned counsel for the



petitioners that the respondent authorities, on taking the benefit of the order impugned and no order being passed in the appeal filed by the petitioners are disturbing the peaceful possession of the petitioners which has been continuing for more than 15 years. It is directed that the petitioners will be at liberty to move before the Commissioner, Tirhut Division, Muzaffarpur, for grant of interim order / stay.

9. It is directed as follows:

(I) The petitioners shall appear before the Commissioner, Tirhut Division, Muzaffarpur where his appeal bearing Bandobasti Appeal Case no. 192 of 2022 is pending and shall pursue the same praying therein for any interim order etc.

(II) The petitioners shall appear before the Commissioner, Tirhut Division, Muzaffarpur on or before 31.5.2023 and will be at liberty to file a petition for interim order in his appeal. In case any petition for interim order is filed before 21.5.2023, it is directed that the status quo with respect to the land in question of the petitioners shall be maintained till the first hearing on the petition praying for interim order filed by the petitioners before the learned Commissioner, Tirhut Division, Muzaffarpur.

10. The writ application stands disposed of with the



above observations and directions.

(Partha Sarthy, J)

Spd/-

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