

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1158 of 2023

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Mahendra Tiwari, Son of Ram Bilash Tiwari, Resident of Village- Devrad,
P.O.- Telari, P.S.- Chenari, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue, Old Secretariat, Bihar, Patna.
2. The District Collector/District Magistrate, Rohtas.
3. The Deputy Collector Land Reforms, Sasaram, Rohtas.
4. The Anchal Adhikari, Chenari, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashikant, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam (AAG-12)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 26-09-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for directing the respondent to take Malguzari and grant Malguzari receipts for the land appertaining to Khata No. 64 area 8 Acres 28 decimals, Khata No. 2 area 0.82 Acres, Khata No. 72 area 3.9 Acres and Khata No. 69 area 4.29 Acres situated in Mauza Shahpur, P.S. and Anchal-Chenari, District-Rohtas, Mauza-Rediya Khurd, P.S. and Anchal-Chenari, District-Rohtas,



Mauza-Garho, P.S. and Anchal-Chenari, District-Rohtas, and Village-Rediya Khurd, P.S. and Anchal-Chenari, District-Rohtas respectively on the ground that Jamabandi Case No. 10/1971-72, Jamabandi Case No. 57/1971-72, Jamabandi Case No. 26/1971-72, Mutation Case No. 126/1971-72 created in the name of Late Ram Bilash Tiwari, son of Late Janki Tiwari and Late Ramkali Devi wife of Sri Ram Bilash Tiwari respectively.

3. Learned counsel for the petitioner submits that the Circle Officer is not issuing the rent receipts and when Chirkut has been filed for providing the certified copy of those Jamabandi, then it has been stated that Jamabandi has been damaged and cannot be re-created on the basis of Malguzari receipts and therefore, the petitioner has filed the present writ petition.

4. Learned counsel for the State submits that a counter affidavit has been filed in this case, wherein, it has been stated that vide letter No. 389 dated 15.06.2022, the Halka Karmchari has reported that those lands belong to *Anabad Bihar Sarkar* and no evidence has been produced by the petitioner relating to his settlement of this land, save and accept, the rent receipts. Learned counsel for the State further submits that the petitioner submitted an application on 28.12.2021 for the



creation of Register-II but has not submitted any document on the basis of which it became clear that Register-II was never created in his name and it is the stand of the State that the land in dispute is exclusive land of the State of Bihar and Register -II has never been created either in the name of petitioner or his ancestors.

5. It has been further stated in the counter affidavit that Anchal Adhikari started an inquiry through Case No. 01 of 2023-24 in which an order was made granting the opportunity to the petitioner to produce document but the petitioner has not produced any cogent document. As such, the final order has been passed on 12.07.2023 holding that in the absence of any proof or any document, jamabandi cannot be created in the name of the petitioner. In the said order, it has also been held that the petitioner has not produced any document regarding disputed land to show how the land has been obtained by the petitioner or his ancestors. Thereafter, the said Miscellaneous Case No. 2023-24 has been disposed of.

6. Learned counsel for the petitioner has filed a rejoinder to the said counter affidavit and submits that Malguzari receipt had been issued by the ex-landlord prior to vesting of the zamindari and, subsequently, Jamabandi was



opened in the name of the ancestor of the petitioner's but Chirkut has not been provided. The stand has been taken by the State that after 1976-77, Malguzari receipts have been issued by the State of Bihar and after vesting of zamindari, they are not accepting the Malguzari receipts.

7. Learned counsel for the petitioner has also annexed a copy of C.S. Khatiyani as Annexure - 8 to the rejoinder to the counter affidavit in which some lands are recorded in the name of Janki Devi and some lands are recorded as Gairmajarua Malik.

8. The stand of the petitioner is that once the rent receipt had been issued up to 1976-77 to the petitioner then on the basis of same, the petitioner should be granted the rent receipts.

9. In the light of the submissions made by the parties on the one hand, the petitioners are claiming to issue rent receipts on the ground that the rent receipts were granted up to 1976-77 in their favour and it was stopped by the State illegally whereas the stand of the State is that the land is recorded as Anabad Bihar sarkar/ Gairmajarua Malik.

10. In this background that Circular No. 925 (vi) dated 11.11.2014 has been issued by the Revenue and Land



Reforms Department, Govt. Of Bihar in which methodology have been discussed as to how a Gair Majarua Malik land can be declared as raiyati land.

11. It transpires to this Court that vide order passed in Case No. 01/2023-24, there is no application of mind relating to the applicability of the said circular 925 (vi) of 11.11.2014. As such, the said order passed in Case No. 01/2023-24 is hereby set aside and the petitioner is directed to file a fresh application before the Circle Officer, Chenari, Rohtas with all his relevant documents on the basis of which the said land, he is claiming to be his own/or his ancestor within four weeks from the date of publication of this order.

12. The Circle Officer is directed to issue notice to all concerned and shall pass an order considering the said Circular No. 925 (vi) dated 11.11.2014 issued by the Revenue and Land Reforms Department, Govt. of Bihar in which detailed discussion/guidelines have been made as to when the Gair Majarua Malik land can be considered as raiyati land.

13. The Circle Officer is directed to pass a reason and speaking order upon considering all the relevant documents of the petitioner in the light of the guidelines mentioned above within three months from the date of completion of the



appearance of the parties concerned.

14. With the above observation and direction, the writ
petition stands disposed of.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	05.10.2023
Transmission Date	NA

