

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1535 of 2018

In
Civil Writ Jurisdiction Case No.8490 of 2015

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1. Pawan Kumar Poddar S/o Late Atma Ram Poddar R/o Poddar House, Bada Bazar, P.S.- Town, District- Darbhanga (Bihar).
 2. Kiran Devi Poddar W/o Pawan Poddar R/o Poddar House, Bada Bazar, P.S.- Town, District- Darbhanga (Bihar).
 3. Sanjay Kumar Mahto S/o Sri Devi Lal Mahto R/o- Vill.- Mabbi Belona, P.S.- Mabbi, District- Darbhanga.

... .. Appellant/s

Versus

1. The State Of Bihar through Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Darbhanga.
4. The District Collector, Darbhanga.
5. The Additional Collector, Darbhanga.
6. The Circle Officer, Bahadurpur Circle, Darbhanga.
7. Pintu Sah S/o Late Shatrughan Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
8. Raj Kumar Sah S/o Late Shatrughan Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
9. Vikram Sah S/o Late Shatrughan Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
10. Anjani Sah S/o Late Shatrughan Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
11. Santosh Sah S/o Late Bindeshwar Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
12. Ramjhari Sah S/o Late Bindeshwar Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
13. Sudhir Sah S/o Late Bindeshwar Sah resident of Mohalla- Azam Nagar, P.S.- Lalit Narayan Mithila University, District- Darbhanga.
14. Meena Jumnani W/o Late Om Prakash Resident of- Mohalla- 58, Shital Coloney, Sector- 11, Jakrohi, Indira Nagar, P.S.- Gajipur, District- Lucknow (U.P.).
15. Jeetendra Jumnani S/o Late Om Prakash Resident of- Mohalla- 58, Shital Coloney, Sector- 11, Jakrohi, Indira Nagar, P.S.- Gajipur, District- Lucknow (U.P.).

... .. Respondent/s



Appearance :

For the Appellant Nos. 1 & 2	:	Mr. Kumar Binode Bariar, Advocate
For the Appellant Nos. 3	:	Mr. Jitendra Kumar Singh, Advocate
For the State	:	Md. Khurshid Alam, AAG
For the Respondent No.7 to 13	:	Mr. Pushkar Narain Shahi, Sr. Advocate
		Mr. Murari Pd. Sinha, Advocate
		Mr. Ram Babu Sah, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-08-2023

The appeal arises from the judgment of the learned Single Judge setting aside a cancellation of Jamabandi carried out by the Additional Collector, Darbhanga. The lands comprised in Khesra No.147/107, 108, 150/106, 104 and 145/105 area 3 Bighas, 17 Katthas, 12 Dhurs and 8 Dhurkis of Khata Nos. 42, 51, 39 and 162 were standing in the name of one Gokul Mal and Teju Mal. The said lands were said to have been conveyed to the father of the petitioners in the writ petition, who are the respondents herein, in the year 1978 by Gokul Mal and Teju Mal. Later, a sale deed is also said to have been executed by the son of Teju Mal, Om Prakash, in 1982. Mutation was done and the Jamabandi existed in the name of the predecessors of the petitioners. Om Prakash, the original 8th respondent filed Jamabandi Cancellation Case No. 16 of 2014-15 before the Additional Collector, Darbhanga, who canceled the Jamabandi in the name of the petitioners and the



predecessors in interest.

2. The petitioners challenged the said cancellation before this Court and Om Prakash was impleaded as 8th respondent; who died while the writ petition was pending before the learned Single Judge. Om Prakash's wife and son were impleaded as respondent No. 8 and 8(a). The learned Single Judge set aside the cancellation carried out by the Additional Collector, Darbhanga, after looking at Section 9 of the Bihar Land Mutation Act, 2011. The respondent Nos. 9 to 11 are in appeal, in whose favour, Om Prakash is said to have conveyed the said properties by yet another sale deed.

3. We have to immediately notice that if the properties were conveyed to the appellant, then Om Prakash had no surviving interest in the same and there could not have been a cancellation case initiated by the 8th respondent before the Additional Collector, Darbhanga. Om Prakash had absolutely no *locus standi* by reason of the title having been conveyed to others; which is admitted by him.

4. Yet again, the learned Single Judge found the ingredients under Section 9 of the Mutation Act not having been complied with. Section 9 was extracted by the learned Single Judge wherein the Additional Collector was empowered either



suo motu or on an application, to make inquiries in respect of Jamabandi; which were created in violation of any law for the time being enforced or in contravention of any executive instruction issued in this behalf. Hence, an inquiry can be initiated on an application or even *suo motu*, by the Additional Collector, Darbhanga, only if either of the above ingredients are satisfied, held the learned Single Judge; according to us rightly.

5. There is absolutely no case set up by Om Prakash that the Jamabandi created in the name of the petitioner/ their predecessors in their interest was in violation of any law for the time being enforced. There is also no contention of contravention of any executive instructions issued in the matter of mutation. The cancellation, hence, cannot be upheld. We find no reason to upset the judgment of the learned Single Judge.

6. In this context, it has to be noticed that the petitioners were in possession of the land on the basis of title deeds based on which mutation was also carried out in their names. Their ownership and possession cannot be disturbed, unless the title deeds are set aside. A subsequent title deed issued by the legal representative of the original title holders cannot invalidate the title conveyed by the predecessors-in-interest. The contention of Om Prakash was also that there was



no such title deed executed by his father or uncle or not at all by himself. If that be the case, the successors in interest would have to challenge the sale deed, based on which mutation was carried out. Only on invalidation of such sale deeds, could there be a cancellation sought for. We leave it to the appellants to challenge the sale deeds, if they so desire but, we uphold the judgment of the learned Single Judge. The cancellation of Jamabandi in the name of the petitioners/respondent Nos. 07 to 13 on being set aside, they would be restored with the title of the property and the mutation would also continue in their names; unless the same is upset in accordance with law.

7. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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