

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24883 of 2018

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1. Kartik Choudhary Son of Late Gulo Choudhary. Resident of village- Bhorsar, P.S.- Katoria, District- Banka .
 2. Chandra Kant Choudhary Son of Late Gulo Choudhary Both resident of village- Bhorsar, P.S.- Katoria, District- Banka .

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The, Deputy Collector Land Reforms, Banka
3. Tetu Pujhar Son of Late Tokhi Pujhar, Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
4. Permeshwar Pujhar Son of Late Aklu Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
5. Shanichan Pujhar son of Late Aklu Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
6. Charku Pujhar son of Late Aklu Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
7. Arjun Pujhar son of Late Danjali Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
8. Aghnu Pujhar Son of Late Huso Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
9. Jhari Pujhar son of Late Toofani Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
10. Diwe Pujhar Son of Late Bhim Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
11. Bhalu Pujhar Son of Late Bhim Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
12. Menu Pujhar S/o of Late Bhim Pujhar, Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
13. Karma Pujhar Son of Late Tipan Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.
14. Shankar Pujhar Son of Late Vishu Pujhar Resident of village- Bhorsar, P.S.- Katoria, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate
For the State : Mr. Dhurjati Kr. Prasad, GP-14
For Respondent Nos. 3 to 14: Mr. Rakesh Kumar Ranjan, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA



ORAL JUDGMENT

Date : 17-01-2023

Heard Mr. Ranjan Kumar Dubey, learned counsel for the petitioners and Mr. Rakesh Kumar Ranjan, learned counsel for the private respondents.

2. Petitioners have filed the present writ application challenging the order dated 27.3.2018 passed by the Member Administrative Bihar Land Tribunal, Patna, in BLT Case No. 970 of 2013, by which, a petition/appeal filed by the petitioner against the order passed by the Divisional Commissioner, Bhagalpur, has been affirmed with the finding that all the documents produced by the petitioners regarding creation of Jamabandi, rent receipts and Hukumnama are forged and fabricated.

3. Mr. Ranjan Kumar Dubey, learned counsel for the petitioners submits that the ancestors of the petitioners acquired the disputed land, details of which, is mentioned in paragraph-4 of writ petition through *Hukumnama* dated 15.3.1945 from the ex-landlord and since then the petitioners are in possession over the same. The ancestors of the petitioners used to pay rent to the ex-landlord and receipt was being issued in their favour. At the time of vesting of the



estate, the ex-landord submitted the return in which the name of the petitioners' ancestors is mentioned and, accordingly, Jamabandi No. 22 was created in the name of the petitioners' ancestors in the year 1956. The rent revenue was being paid to the State of Bihar after creation of Jamabandi. The rent receipts have been annexed as Annexure-4 series to the writ application.

4. Learned counsel further submits that in 1984, for the first time, Toofani Pujhar, father of the private respondents, has filed an application before the Circle Officer, Katoria, for cancellation/correction of *Jamabandi* No. 22 which is running in the name of petitioners' ancestors and the same gave rise to Misc. Case No. 12/1984-85. The said Misc. Case was dismissed by the learned Circle Officer vide order dated 1.12.1984 with the finding that ex-landlord has submitted return and *Jamabandi* is running in the name of the petitioners' ancestors. The order reflects the report of the *Karamchari* stating that the petitioners were in possession over the disputed land except 2 decimal of the disputed land in which the ancestors of the private respondents were in possession on the basis of Purchas issued in their favour under



the Bihar Privileged Persons Homestead Tenancy Act, 1947. The private respondents have not challenged the order passed in Misc. Case No. 12/1984-85 or the order passed in Demarcation Case which was filed by the petitioners for measurement of the disputed land.

5. The private respondents have tried to disturb the possession of the petitioners. Accordingly, the petitioners filed a case under the BLDR Act before the DCLR, Banka, bearing BLT Case No. 970/2013 dated 27.03.2018 with a prayer to restrain the private respondents from disturbing the possession of the petitioners. The case was dismissed by the DCLR holding that complex question of title is involved in this case between the parties. Aggrieved by the same, the petitioners filed an appeal before the Divisional Commissioner, bearing BLDR Appeal No. 104/2012-13 which was also dismissed by an order dated 27.3.2018 by the Commissioner holding that the *Jamabandi* created in the name of the petitioners is forged and fabricated and directed the Circle Officer to lodge an F.I.R. against the petitioners. Thereafter, the petitioners preferred a case before the Bihar Land Tribunal, Patna, bearing BLT Case No. 970 of 2013, but the same has also



been dismissed and the order passed by the Divisional Commissioner has been affirmed after arriving at the same conclusion that the *Hukumnama* is *ab initio void* and the *Jamabandi* created on the basis of forged *Hukumnama* is illegal and, therefore, the same shall be cancelled.

6. Assailing the order passed by the learned Divisional Commissioner as well as the Bihar Land Tribunal, learned counsel submits that the Divisional Commissioner and the Bihar Land Tribunal exceeded their jurisdiction by arriving at the conclusion that the documents produced by the petitioners are forged and fabricated without having any cogent evidence. He further submits that cancellation of long standing *Jamabandi* can not be cancelled in Summary Proceeding. Law has been settled by this Hon'ble Court reported in **2015 (1) PLJR 606 and 2017 (1) PLJR 818** holding that long standing *Jamabandi* can only be cancelled by the learned Civil Court. Accordingly, the submission is that whether the documents produced by the petitioners are forged and fabricated or not, the same can only be decided by a competent Civil Court in a full fledged trial.



7. On the other hand, learned counsel for the private respondents submits that the land in question is recorded in the name of ancestors of private respondents late Budhan Pujhar in the C.S. Khatiyan. The ancestors of the private respondents have been coming in possession upon the said land since the *zamindari* era and the petitioners are trying to disturb the possession of the private respondents. The private respondents have no knowledge regarding the forged and fabricated *jamabandi* created by the Circle Officer on the basis of *Hukumnama* produced by the petitioners. He further submits that the petitioners filed BLT Case in which the finding has been arrived at against them by the Divisional Commissioner that *Hukumnama*, *Jamabandi* and other documents produced by the petitioners are forged and fabricated. The name of ancestors of private respondents is recorded in Cadestral Survey *Khatiyan* but the petitioners have not shown any supporting documents on which the alleged plane *Hukumnama* was issued on the personal land of private respondents that too without any correction made in the Cadestral Survey *Khatiyan*. He further submits that the finding of the DCLR that the matter involves the complicated



question of title which can only be decided by the Civil Court is correct. The BLDR Appeal filed by the petitioners has also been dismissed on the ground that all the documents produced by the petitioners, are forged and fabricated. There is concurrent finding of fact regarding the documents produced by the petitioners being forged. Last submission is that the matter can only be decided by the competent civil court.

8. Learned counsel for the State also submits that the dispute between the parties involved in this case relating to the title can only be decided by the learned competent civil court and not under the BLT Act by the authorities concerned.

9. I have heard learned counsel for the parties.

10. It is not in dispute that the *Jamabandi* was created in favour of the petitioners' ancestors in the year 1956 and since then they have been paying rent receipts. The question of *jamabandi*, rent receipts and *Hukumnama* being forged and fabricated, can only be decided after full fledged trial by the learned civil court. The finding arrived at by the Divisional Commissioner and the Bihar Land Tribunal regarding the documents produced by the petitioners being forged and fabricated, is not supported by any clinching and



cogent evidence. Both petitioners as well as private respondents are claiming their title upon the subject land.

11. In view of the fact that question of title is involved between the parties, the present writ application is disposed of with a direction to the aggrieved parties to approach the competent Civil Court within a period of three months. Since the parties have been given direction to approach the competent civil court, the order impugned passed by the Divisional Commmissioner as well as Bihar Land Tribunal, vide BLT Case No. 970 of 2013 dated 27.3.2018 and BLDR Appeal No. 104 of 2012-13 dated 25.7.2013 are set aside.

(Anil Kumar Sinha, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19/01/2023
Transmission Date	N.A.

