

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4366 of 2021**

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Ramjee Prasad Yadav @ Ramjee Yadav Son of Late Rajendra Prasad Yadav  
Resident of Jajhat Sabaila, Police Station- Singeshwar , District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Collector, Madhepura
3. The District Land Aquisition Officer, Madhepura
4. The Revenue Officer, Madhepura
5. The Circle Officer, Singheshwar Circle, Madhepura

... .. Respondent/s

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**Appearance :**

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|----------------------|---|---------------------------------------------------------------|
| For the Petitioner/s | : | Mr. J.S. Arora, Sr. Advocate<br>Mr. Parmanand Kumar, Advocate |
| For the Respondent/s | : | Mr. Manoj Kumar, Advocate<br>Mr. Dhurjati Kumar Prasad, GP 14 |

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL JUDGMENT**

**Date : 23-09-2024**

Heard Mr. J.S. Arora, learned senior counsel for the petitioner and Mr. Dhurjati Kumar Prasad, learned G.P. 14 appearing on behalf of the State.

2. The present writ petition has been filed for the following reliefs:-

*“i). For commanding the respondent authorities to make correction in Revenue records in terms of order / decree dated 26.09.2007, passed in favour of the petitioner and others, in a suit No. 6208 of 1990 under Section 106 of the Bihar Tenancy Act by the Revenue Officer, Madhepura by entering the name of the petitioner and removing the name of the State of Bihar in regard to land of the petitioner detailed in paragraph no. 8 hereunder.*



*ii). Also for commanding the respondent authorities to release the amount of fair compensation as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, hereinafter referred to as the Act in regard to petitioner's land acquired by the Government of Bihar for B.N. Mandal University, as detailed in paragraph no. 8 hereunder; which is part of the petitioner's land, detailed in paragraph no. 8 hereunder.*

*iii). Also for commanding the respondent authorities restraining them from interfering into petitioner's possession on the unacquired land, being 29 Decimal of Revisional Survey Plot No. 1164, out of petitioner's land and refraining them from taking possession thereof, from making any construction thereon and from doing any act of changing the physical feature of the same or any part thereof.*

*iv). Also for any other appropriate relief(s) to which the petitioner is found entitled either in the eye of law or in the facts and circumstances of the case.”*

3. Learned senior counsel for the petitioner submits that ex-landlord Babu Durga Prasad Mandal and Braj Kishore Mandal had settled certain piece of land in favour of the petitioner's ancestor and others in the year Fasli 1342, 1345 and 1356. The petitioner's ancestors continued cultivating possession of the same as Raiyat of the said land. In course of time when Jamindari system was abolished and the Estates vested in the State, then the landlord had submitted their Jamindari return showing therein the names of the settlees including the name of the petitioner's father and uncle. The



State of Bihar also recognized the petitioner's father and uncle as Raiyat of the land in question. Jamabandi were opened in the name of the father of the petitioner and his uncle, namely, Tarni Yadav (since deceased) in regard to the land in question vide Jamabandi No. 235. The father and uncle of the petitioner continued to pay rent to the State of Bihar and in lieu thereof Rent Receipts continued to be issued in their favour till the year 1983-84. The land of the petitioner and his uncle as well as of other persons in course of Revisional Survey, because of mistake committed in the process of preparation of Revisional Survey Khatian in regard to the said land the name of the State of Bihar had appeared in place of the petitioner's father or the petitioner. But the Rent Receipts continued to be issued in favour of the petitioner, hence he could not know about the said wrong entry.

4. Learned counsel for the petitioner submits that the name of one Rudra Narayan Yadav and others were also not recorded in Khatian and in lieu thereof in Revisional Survey Khatian erroneously the name of the State of Bihar was recorded like the case of the petitioner.

5. Learned counsel for the petitioner submits that as such they have filed Suit No. 6208 of 1980 before the Revenue



Officer, Madhepura under Section 106 of the Bihar Tenancy Act, hereinafter to be referred as B.T. Act. The petitioner after getting knowledge of the said entry, intervened into the said case by filing an intervention petition, which was allowed by the Revenue Officer, Madhepura and the said case was finally decreed in favour of the petitioner and other applicants vide order/decreed dated 26.09.2007 passed by the Revenue Office, Madhepura and it was ordered to remove the name of the State of Bihar and to enter the name of the petitioner on his land in the records of Revisional Survey Khatian.

6. Learned counsel for the petitioner submits that after the passing of the said decree dated 26.09.2007 and endorsement to the effect was made in the Khatian that entry be treated to have been recorded in the name of the petitioner and other persons in whose favour the said decree was passed. The details of the land against which entry was treated to be corrected were appertaining to Old Khata No. 97, New Khata No. 363, Kheshra No. 1164 (New), Area 0.38 decimal, Kheshra No. 1175, area 0.75 decimal, Kheshra No. 1179, area 0.17 decimal, Kheshra No. 1313, area 0.19 decimal all in Tauzi No. 200 of Mauza – Jajhat, Police Station- Singeshwar, District- Madhepura in favour of the petitioner and his said uncle jointly.



He further submits that the State of Bihar acquired all the lands of the petitioner and his uncle, save and except 29 decimal of land of Revisional Survey Plot No. 1164, in respect of which also decree for correction was passed in the aforesaid case under the said Act. In respect of the acquired land, notices for payment of compensation amount was also issued by the Collector on 28.04.2008, but when the petitioner and his uncle went to receive the compensation amount, the same was denied on the ground that in the Revisional Survey Khaiyan the land stands recorded in the name of the State of Bihar and accordingly the petitioner is not entitled to the compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. Learned counsel for the petitioner submits that the notice with regard to the acquired portion of 9 decimal of Revisional Survey Plot No. 1164 was issued only in the name of the petitioner, whereas notices in regard to rest of the acquired plots were issued jointly in the name of the petitioner and his uncle, Tarni Yadav. So far the land which were going under acquisition the family was objecting to that and in the said oral family arrangement, the petitioner was made *defacto* Karta and it appears that altogether 29 decimal of plot no. 1164 was



acquired by the competent authority. He further submits that the petitioner has also gave application to the Respondent No. 5 for mutation of his name as well as of the uncle in terms of the decree, passed by the Revenue Officer, so that compensation amount could be released in their favour and upon application of the petitioner, the Respondent No. 5 sought a report from the concerned Anchal Amin, vide his letter dated 30.05.2009. The concerned Anchal Amin also submitted a report to the effect that Jamabandi may be created in favour of the petitioner and his uncle, in view of the decree having been passed in their favour, but the Respondent No. 5 has not ordered to mutate the name of the petitioner and his uncle in terms of the decree passed by the Revenue Officer.

8. Learned counsel for the State has filed a detailed counter affidavit stating therein that the petitioner is not entitled for compensation for the land in question. He submits that the Revisional Survey Khatiyani has been recorded in the name of State of Bihar and although the petitioner has filed petition for correction of Jamabandi in his name before the Respondent No. 5 on the basis of the decree passed in Case No. 106 of B.T. Act. But as per the Order No. 150 dated 06.06.2013, which suggests that the order of the Revenue Survey Officer has passed back-



dated order for his illegal gain and not only this, after coming in effect of the Bihar Special Survey and Settlement Act, 2011 and Bihar Special Survey and Settlement Rule, 2012 under Section 101 to 108 of the B.T. Act have been automatically repealed. So no Jamabandi can be created on the basis of the order passed by the Revenue Officer under Section 106 of the B.T. Act. And apart from that Anchal Amin also reported that the petitioner has no possession over the land in question and the respondents are not bound to comply with the decree passed under Section 106 of the B.T. Act and the same has not been passed by the competent jurisdiction.

9. Learned counsel for the petitioner submits that as per the provision of Section 4 of the Bihar Special Survey and Settlement Act, 2011, the proceedings carried out prior to the enactment of the said act and orders passed therein shall not be deemed to be automatically became invalid. And it is not in dispute that vide order dated 26.09.2007 passed in Suit No. 6208 of 1980 by the Court of Revenue Officer, Madhepura, the said order was never challenged before any higher forum by the State of Bihar and as such the said order attained finality. Executive instructions issued by the Administrative Authority cannot override the statutory provisions of Special Survey and



Settlement Act. And as far as contention with regard to the passing the back dating orders by the Assistant Settlement Officer, Saharsa, the case of the petitioner is related to Madhepura not Saharsa. As far as the stand of the State-Respondent that the land of the petitioner does not find mention in the Gazette notification. He further submits that the competent authority had issued the notice with respect to the land in question to the petitioner and his uncle (Annexure-3 & 4 of the writ petition) by which the State authority has directed the petitioner to receive compensation.

10. Having heard learned counsel for the parties, this Court had come to the conclusion that the petitioner is owner of the land in question in view of the decree passed by the Revenue Officer under Section 106 of the Bihar Tenancy Act in Suit No. 6208 of 1980 which is unchallenged, final and conclusive and the authorities are directed to make necessary correction in the revenue records in terms of decree passed by the Revenue Officer under Section 106 of the Bihar Tenancy Act in Suit No. 6208 of 1980 which is unchallenged, final and conclusive and after making necessary correction in the revenue record the authorities are also directed to make payment of the compensation for the land of the petitioner which was acquired



for the purpose of B.N. Mandal University in accordance with law within a period of three months from the date of production/receipt of copy of this order.

11. With the aforesaid direction, the writ petition stands allowed.

**(Rajesh Kumar Verma, J)**

Vanisha/-

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