

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9101 of 2020

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Ramdev Mukhiya Son of Late Sahdev Das @ Sahdev Mukhiya Resident of
Village- Jiwachhpur, Police Station- Bhimpur, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fist Resources Department, Government of Bihar, Patna.
2. The Director, Fisheries, Animal Husbandry and Fist Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Supaul.
4. The District Fisheries Officer-cum-Chief Executive Officer, Supaul.
5. The Circle Officer, Chhatapur, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Alok Kumar, Advocate Mr. Ravi Shankar, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, (AG)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 13-02-2024

Heard the parties.

2. The present petition has been preferred for the following reliefs:

(i) for issuance of writ in the nature of certiorari quashing the letter no. 76 dated 28.02.2020 (Annexure-6) issued by the Respondent No. 4 whereby the Respondent No. 4 had informed the son of the petitioner that the land in question which is situated in Mauza- Jiwachhpur, Khata No. 242, Plot No. 1567, Circle-Chhatapur, District- Supaul had been transferred by the



Circle Officer, Chhatapur and the said land was settled as Government Puddle, Jiwachhpur;

(ii) to quash any settlement made by the Respondent No.4 regarding pond of Jiwachhpur which is situated in Mauza- Jiwachhpur, Thana No. 34, Khata No. 242, Plot No. 1567, Circle- Chhatapur, District- Supaul because the said land is private land and the private land cannot be settled by the Respondent No. 4;

(iii) to restrain any disturbance or actions by the state respondents against the aforesaid land during the pendency of the instant writ application.

3. In this case, a supplementary counter affidavit has been filed on behalf of the respondent, the Collector, Supaul himself and learned State Counsel has taken this Court to paragraphs 9 to 11 which are incorporated hereinbelow:

9. That, as regard transfer of pond situated over the land in question is concerned, it was transferred by the then Circle Officer, Chhatapur in favour of Department of District fisheries, Supaul vide letter No.- 527-2 dated 28/06/1994, measuring area 60 decimal of pond covered with 65 decimal of land of embankment of pond. An opportunity of hearing has also



been provided earlier to the petitioner regarding his claim over the land in question vide notice dated-09/03/2021 issued by the Circle Officer but no valid documentary evidence was produced by the petitioner before the Circle Officer in support of his clear and valid title over the land in the Of hearing question.

10. That, it is also relevant to mention here that an encroachment also initiated about the land in question and encroachment made over the same has been removed by the authority concerned and during the course of encroachment proceeding, no objection has been filed by the petitioner as well protest made by petitioner regarding such encroachment. The pond is continuously being settled in favour of different persons since fairly long period.

11. That, as regard claim of petitioner in respect to Jamabandi No-1301 is concerned, it is being submitted that in the course of enquiry done by the Circle officer it has been found that Jamabandi No-1301 is existed in the name of Sahdev Das but creation of said Jamabandi found to be void ab initio, because said Jamabandi found to be in existence without any Executive Order, liable to be cancelled by the competent authority, hence a recommendation to cancel



the Jamabandi No- 1301 also been sent by the the Circle Officer before the Additional Collector, Supaul vide letter No. 784-2 dated 07.04.2021 and further proceeding for cancellation of Jamanbandi No. 1301 is pending before the Additional Collector, Supaul.

4. The letter no. 784-2 dated 07.04.2021 issued by the office of Circle Officer, Chhatapur to the Additional Collector, Supaul after narrating the gist of the case and made a recommendation for cancellation of the Jamabandi created in favour of the petitioner.

5. Learned counsel for the petitioner submits that till date, the process has not been initiated and unless he is heard so that he can submit the relevant documents, no such decision can be taken.

6. Learned State Counsel agrees to the said fact that when the 'Jamabandi' for the present is running in the name of the petitioner, any decision relating to cancellation of the said 'Jamabandi' can be done only after hearing the concerned parties.

7. Learned counsel for the petitioner submits that he will be presenting his case before the Additional Collector, Supaul within a period of four weeks from today alongwith all



the relevant documents.

8. In case, the matter is still pending before the Additional Collector, Supaul, once the application alongwith all the relevant documents are presented by the petitioner before the Additional Collector, Supaul, the same shall be taken to its logical conclusion after noticing and hearing all the necessary parties preferably within a period of six months of the filing of the application by the petitioner.

9. In view of the fact that on 12.12.2023, a Bench of this Court had passed an order of stay till the pendency of the writ petition, the same is extended for a limited period of four weeks, the time the petitioner has taken to file application before the Additional Collector, Supaul. The petitioner is at liberty to prefer further petition for extending the stay before the concerned authority.

10. The writ petition stands disposed of with the aforesaid liberty.

(Rajiv Roy, J)

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