

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10723 of 2021

1. Shiv Kumar Jaiswal Son of Baidya Nath Singh Binod Resident of Road No.2, Vikash Nagar, House of Lalit Mohan Sinha, P.O. Sadakat Ashram, P.S.-Digha, District-Patna.
2. Sri Anand Kumar jaiswal Son of Baidya Nath Singh Binod, Resident of Road No.2, Vikash Nagar, House of Lalit Mohan Sinha, P.O. Sadakat Ashram, P.S.-Digha, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Supaul.
3. The Additional Collector, Supaul.
4. The DCLR, Supaul.
5. The Circle Officer, Triveniganj, Supaul.
6. Md. Rahimal Son of Zakir Miyan Resident of Village-Nandana, P.S.-Jadiya, District-Supaul
7. Md. Faisal Son of Zakir Miyan Resident of Village-Nandana, P.S.-Jadiya, District-Supaul
8. Md. Naiyan Son of Zakir Miyan Resident of Village-Nandana, P.S.-Jadiya, District-Supaul
9. Md. Saif Son of Zakir Miyan Resident of Village-Nandana, P.S.-Jadiya, District-Supaul
10. Umar, S/o Moyuddin Miyan, Resident of Village-Nandana, P.S.-Jadiya, District-Supaul
11. Mehendi Miyan S/o Late Ismile Miyan Resident of Village-Nandana, P.S.-Jadiya, District-Supaul

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Parth Gaurav, Advocate
For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

10 29-04-2024 Heard learned Senior Counsel appearing on the behalf of the petitioners, the State as also the learned counsel appearing on behalf of respondent nos. 6 to 11.

2. Though no supplementary affidavit has been filed pursuant to the last order of this Court, learned Senior Counsel clarified that Jakir Miyan is no more and as such he



prayed is allowed to incorporate the appropriate word before the name of Jakir Miyan who is father of the respondent nos. 6 to 9.

3. The matter relates to the land appertaining Khata No. 57, Plot No. 431 and 433 (area 6 bighas) situated at Mauza Nandani, Triveniganj, Supaul and earlier, the respondent no.5, the Circle Officer, Triveniganj, Supaul vide an order dated 30.1.2017 rejected the claim of the father of the respondent nos. 6 to 9, Jakir Miyan.

4. Once, he was transferred, another petition was preferred by the sons of Jakir Miyan (the respondent nos. 6 to 9) before the new Circle Officer, Triveniganj, Supaul who vide an order dated 12.6.2019 passed an order in his favour.

5. Learned Senior Counsel for the petitioners submit that it was completely an illegal order inasmuch as, the Circle Officer has no power to review its own decision.

Earlier, a counter affidavit on behalf of the respondent nos. 2 to 5 which included the District Magistrate, Supaul was filed duly signed by the Circle Officer, Triveniganj justifying the order. However, on query whether the statement of facts submitted by the Circle Officer, Triveniganj has the approval of the Collector/Additional Collector; the same could not be



located by the State Counsel and in that background, this Court on 18.3.2024 directed filing of the fresh counter affidavit duly signed by the Additional Collector, Supaul which must have endorsement of the Collector, Supaul.

6. The office of G.P.-18 received second statement of facts vide letter no. 1156 Supaul dated 26.4.2024. Accordingly, supplementary affidavit has been filed and paragraphs-10 and 11 read as follows:

"10. That, in reply to contents of Para 13 & 19 of the present writ petition, it is humbly submits that on the basis of an application submitted by the private respondents for declaration of their raiyati right over the land in question, the proceeding of case No.-9/2014 has been initiated by the then Circle Officer, Trivenigan). Subsequently, vide an order dated 20/09/2016, passed in CWJC 21279 of 2016 & other analogous cases, it was directed by the Hon'ble Court to the Anchal



Adhikari, Trivenigang to take up all the cases filed on behalf of the petitioners under Section 480 of the B.T. Act for its final disposal at an early date, but before passing any final order, reasonable opportunity of hearing must be given to the petitioners and also the private respondents of each case. It was also directed to the Anchal Adhikari, Triveniganj to complete the entire exercise within a maximum period of six months from the date of receipt/production of copy of this order. Accordingly, the notices were issued to petitioners and after hearing the parties as well as considering the report dated 21/01/2017 submitted by the then Revenue Karmachaaree, a reasoned & speaking order has been passed by the then Anchal Adhikari, Triveniganj namely Birendra Kumar



Jha, on 30/01/2017 whereby claim of private respondents has been rejected. After the transfer of the then Anchal Adhikari, Triveniganj namely Birendra Kumar Jha, the private respondents again submitted an application before the then Anchal Adhikari, Triveniganj namely Dhrub Kumar on 04/10/2018. Ignoring the previous order & committing gross negligence, the then Anchal Adhikari, Triveniganj namely Dhrub Kumar, called for a report from the Revenue Karmachaaree namely Raj Kumar Jha, who had earlier submitted his report before the then Anchal Adhikari, Triveniganj namely Birendra Kumar Jha on 21/01/2017 in respect to land in question. The Revenue Karmachaaree Raj Kumar Jha again submitted his report on 10/02/2019 before the



Anchal Adhikari. Trivenigang with recommendation that notice may issue to Jamabandi raiyat & necessary action may taken towards an occupancy right to applicants (private respondents) U/S 48(D) of the B. T. Act, over the land in question. Although. report dated 10/02/2019 submitted by the Revenue Karmachaaree was self contradictory with his earlier report dated 21/01/2017 but ignoring the same, the then Anchal Adhikari, Triveniganj namely Dhrub Kumar, passed an erroneous order dated 12/06/2019 and allowed an 04/10/2018 submitted by or private respondents.

11. That, from aforesaid facts, it is clear that the then Anchal Adhikari Dhrub Kumar and the then Revenue Karmachaaree Raj Kumar Jha have acted in unlawful manner. The Sub-



Divisional Officer, Triveniganj, enquired the matter in the light of directions issued to him vide letter No.-346-2 dated 10/04/2024. After that, he submitted his report vide letter No.- 730 dated 19/04/2024 with recommendation for action against the both of them in accordance with rules. Accordingly, Charge Sheet (परपत्र-"क") has been framed against the then Anchal Adhikari, Triveniganj Sri Dhrub Kumar and sent to the Secretary, Revenue & Land reforms Department, Bihar, Patna vide letter No. 462 dated 20/04/2024 for initiating Departmental Proceeding against Sri Dhrub Kumar Jha. As regard question of action against the revenue Karmachaaree Raj Kumar Jha is concerned, Charge Sheet (परपत्र "क") has also been framed



against him and an explanation has been called from, Sri Raj Kumar Jha vide letter No.- 463-2. Dated 22-04-2024 and the deponent named above further undertakes that necessary action shall be taken in accordance with rules against the revenue Karmachaaree, Sri Raj Kumar Jha".

7. The higher officials of the district have accepted that the Circle Officer, Triveniganj by allowing the second petition and passing the order exceeded his jurisdiction and accordingly steps have been/initiated against the then officials.

8. The present Circle Officer, Triveniganj who put the first affidavit on oath also has to answer how he justified the order and put the same on affidavit on behalf of the Collector.

9. Learned counsel appearing on behalf of the respondent nos. 6 to 11 on the other hand justifies the second order passed by the Circle Officer, Triveniganj submitting that though the land in question was same, the persons were different inasmuch as Jakir Miyan was no more and as such in



the changed scenario, his sons filed the petition which was allowed by the Circle Officer, Triveniganj. He thus submitted that the writ petition is fit to be dismissed.

10. In the opinion of the Court, the said submission is preposterous inasmuch as the land in question remains the same and an order passed against Jakir Miyan is applicable to his sons/heirs also. Only because Jakir Miyan died, his sons chose to prefer another petition before the same Circle Officer, Triveniganj which had earlier negated the claim. He had absolutely no power to review his own order. Now that the fresh counter affidavit filed by the State duly endorsed by the Collector, Supaul and put an affidavit by the Additional Collector, Supaul has clarified that the Circle Officer, Triveniganj exceeded its jurisdiction, in the considered opinion of this Court, the order dated 12.6.2019 in Case No. 09 of 2014 (Annexure-7 to the petition) has to be interfered with. Accordingly, the same is set aside.

11. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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