

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7300 of 2023

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1. Tribhuvan Rai S/o Late Mahendra Rai Resident of Khedalpura, P.O.- Bihta, P.S.- Bihta, District- Patna, PIN Code- 801103.
 2. Hardev Rai, S/o Late Aklu Rai Resident of Village- Kishunpur, Bihta, P.O.- Bihta, P.S.- Bihta, District- Patna, PIN Code- 801103.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The District Magistrate-Cum- Collector, Patna.
4. The Additional Collector, Patna.
5. The Deputy Collector, Land Reforms, Patna, Sadar.
6. The Circle Officer, Bihta, Patna.
7. The Secretary, Department of Industry, Govt. of Bihar, Patna.
8. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Bihar, Patna.
9. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Patna.
10. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Patna.
11. The Managing Director, Bihar State Sugar Mill Corporation, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Nawnit Kr. Tiwari, Advocate
For the Respondent/s	:	Mr. Saurav Kumar, AC to SC-19 Mr. Gyanshankar, Advocate
For the BIADA	:	Mr. Lalit Kishore, Sr. Advocate Mr. Prashant Pratap, Advocate Mr. Kanishka Shanker, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 18-03-2024

Heard Mr. Ranjan Kumar Dubey representing the



petitioners, Mr. Lalit Kishore, learned Senior counsel representing the BIADA as also Mr. Saurav Kumar, learned AC to SC-19 and Mr. Gyanshankar for the respondent No. 11 (The Managing Director, Bihar State Sugar Mill Corporation, Patna).

2. The present writ application has been preferred for the following relief/s:

“(i). For issuance of writ in the nature of command restraining the respondents from forcefully taking possession over the land of petitioners bearing Tauzi No. 2544, Thana No. 50, Khata No. 12, Plot No. 362 Area 46.875 decimals, Khata No. 39, Plot No. 332 area 1 Acre 21 decimals, Khata No. 20, Plot No. 439 Area 87 decimals. (these land belongs to petitioner no. 1) for which Jamabandi No. 845, 882 and 883 are running in the name of petitioner no.1 and land of Khata No.12, Plot No. 362 Area 50 decimals (belongs to petitioner no. 2) for which jamabandi no. 828 is running in the name of petitioner no.2.

(ii) For commanding the respondents to



initiate a land acquisition proceeding with respect to land in question under the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation, Resettlement Act. 2013 and pay compensation also.

(iii) For issuance of writ in the nature of certiorari for quashing the notice dated 28.03.2023 issued under the signature of Additional Collector, Patna in Jamabandi Cancellation Case No. 44/2022-23 by which petitioner has been asked to appear before him and also for quashing the entire proceeding of Jamabandi Cancellation Case No. 44/2022-23 which is completely without jurisdiction.

(iv) For issuance of writ in the nature of certiorari for quashing the recommendation letter no. 854, dated 24.03.2023 issued by Circle Officer, Bihta by which he has initiated Jamabandi Cancellation Case No. 05/2022-23 and with respect to disputed



land along with other lands and refer the same before Additional Collector.

(v) For issuance of writ in the nature of command directing the Additional Collector, (respondent no.5) to not proceed further in Jamabandi Cancellation Case No. 44/2022-23 till final disposal of this writ petition.

(vi) For any other writ/writs, order/orders for which petitioners deemed entitled to.”

3. Learned counsel appearing on behalf of the petitioners has taken this Court to the notice dated 11.04.2023 issued by the office of Additional Collector, Patna in cancellation case No. 44/2022-2023 to show that neither the land description is there nor any further detail and/or any document attached to it to show for which land, the petitioners have to submit their respective show cause. He has also relied on an order of Patna High Court in ***Richesh Anand Versus State of Bihar*** reported in ***2019 (3) PLJR 624*** with specific reference to paragraph-3 which deal with Section-9 of the Bihar Land Mutation Act, 2011 and read as follows:

“Bihar Land Mutation Act, 2011 -



Section 9 - challenge to initiation of jamabandi cancellation proceeding - power of initiation of such proceeding can be exercised by Additional Collector only if he is satisfied that a jamabandi has been created in violation of any law or executive instruction in this behalf - therefore, a notice issued u/s 9(1) for cancellation of jamabandi must disclose specific prima facie opinion of the Additional Collector that the jamabandi created in favour of a person is in violation of any law or is in contravention of any executive instruction - however, instantly the notice does not indicate such violation or contravention - further, when the parties are given a reasonable opportunity to appeal, adduce evidence and be heard, it contemplates that notice must be clear, capable of being dealt with by the parties concerned - the notice not in conformity with provision of Section 9(1), set aside - direction issued. (Paras 8 to 11)”



4. He as such submits that in absence of the description of land, the notices have to go. Learned counsel for the petitioner has also drawn the attention of this Court to an order passed in the case of **Kumar Nawlesh @ Kumar Nawlesh Roy in CWJC No. 3336 of 2024**, disposed of on **28.02.2024**, in which the Court interfered on the same ground that the details of the land were not found in the notice.

5. Learned State counsel as usual wanted time for filing counter affidavit despite service of two sets of writ petition on 25.04.2023 and matter adjourned by the co-ordinate Bench on 07.10.2023 and 19.01.2024 directing the State Counsel to file counter affidavit.

6. Mr. Lalit Kishore, learned Senior counsel representing the 'BIADA' on the other hand submits that in this case, the petitioners cannot claim that they have no knowledge about the land on which the notices have been issued as the same has been done pursuant to the recommendation made by the Circle Officer, Bihta, Patna vide its letter No. 854 dated 24.03.2023 and they should have submitted their respective show-cause instead of approaching the Patna High Court.

7. To this, learned counsel appearing on behalf of the petitioners submit that the notice of the Additional Collector do



not clarify that it relates to the letter No. 854 dated 24.03.2023.

8. Taking into account the submissions put forward by the parties as also the aforesaid facts and having been satisfied that in a very routine/causal manner, the notices are being issued as in the present case, without detailing out the description of the land and expecting the aggrieved person to submit their show cause on the notices, the same being cryptic, bereft of details has to be interfered with.

9. As such, the notice issued in Jamabandi Cancellation Case No. 44/2022-23 under the signature of Additional Collector, Patna, dated 28.03.2023 (Annexure-1 to the writ petition) stands quashed.

10. The Additional Collector, Patna is free to issue fresh notice upon the petitioners incorporating entire details of the land with respect of which it wants reply so that the process starts in a proper manner.

11. Let a copy of this order be transmitted to the Additional Chief Secretary, Revenue and Land Reforms Department, Bihar, Patna for his perusal and necessary action so that a general communication is issued to the all concerned officials/respondents in the State of Bihar and no further cryptic notices bereft of land details are issued to a landholder/citizen



forcing them to flood Patna High Court with writ petitions.

12. CWJC No. 7300 of 2023 stands disposed of.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	20.03.2024
Transmission Date	

