

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4827 of 1993

- 1.1. Manju Shahi, widow of Late Pashupati Narain Shahi Resident of Village- Belchhi, Police Station- Chandi, District- Nalanda.
- 1.2. Ravi Shahi Minor Son of Late Pashupati Narain Shahi under guardianship of his natural mother Manju Shahi, Resident of Village- Belchhi, Police Station- Chandi, District- Nalanda.

... .. Petitioners

Versus

1. The State of Bihar.
2. The Deputy Collector, Land Reforms, Barh.
3. The Anchal Adhikari, Barh.
- 4.1. Chamru Ram Son of Late Ram Kishun Ram Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 4.2. Kamru Ram Son of Late Ram Kishun Ram Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 4.3. Arjun Ram Son of Late Ram Kishun Ram Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 4.4. Bilas Ram Son of Late Ram Kishun Ram Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 6.1. Naresh Mahto S/o Late Ram Briksh Mahto Resident of Village Budhua Chak, P.S. and P.O. Athmalgola, District Patna.
- 6.2. Vijay Mahto S/o Late Ram Briksh Mahto Resident of Village Budhua Chak, P.S. and P.O. Athmalgola, District Patna.
- 6.3. Shailendra S/o Late Ram Briksh Mahto Resident of Village Budhua Chak, P.S. and P.O. Athmalgola, District Patna.
- 6.4. Bipin Mahto S/o Late Ram Briksh Mahto Resident of Village Budhua Chak, P.S. and P.O. Athmalgola, District Patna.
- 6.5. Sampatiya Devi D/o Late Ram Briksh Mahto Resident of Village Budhua Chak, P.S. and P.O. Athmalgola, District Patna.
7. Harkhit Raut Son of Bideshi Raut Resident of Village- Budhua Chak, Police Station Athmalgola, District- Patna.
- 8.1. Rama Raut Son of Late Rudal Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 8.2. Birju Raut Son of Late Rudal Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 8.3. Chandar Raut Son of Late Rudal Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.



- 8.4. Dinesh Raut Son of Late Rudal Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 9.1. Chechan @ Ramprit Mahto S/o Late Mathura Raut Resident of Village Budhua Chak, P.O. and P.S. Athmalgola, District Patna.
- 9.2. Pramod Mahto S/o Late Mathura Raut Resident of Village Budhua Chak, P.O. and P.S. Athmalgola, District Patna.
- 9.3. Chunchun Mahto D/o Late Mathura Raut Resident of Village Budhua Chak, P.O. and P.S. Athmalgola, District Patna.
- 9.4. Mina Devi D/o Late Mahtura Raut Resident of Village Budhua Chak, P.O. and P.S. Athmalgola, District Patna.
- 10.1. Raj Kumar S/o Late Jatan Raut and grandson of Chhota Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
11. Dwarika Raut Son of Somar Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
12. Raj Kumar Raut Son of Jatan Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
13. Kishori Raut Son of Ganauri Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
14. Radha Shyam Son of Ishwari Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
- 15.1. Yogi Raut S/o Late Chandeshwar Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
17. Ganga Raut Son of Ramdeo Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
- 18.1. Bablu Raut Son of Late Bachchu Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 18.2. Raju Raut Son of Late Bachchu Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
- 18.3. Rajiv Raut Son of Late Bachchu Raut Resident of Village Budhuachak, P.O. Athmalgola, District Patna.
19. Mahendra Raut Son of Baldeo Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
20. Chhotan Raut Son of Baldeo Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
21. Ramashray Raut Son of Baldeo Raut Resident of Village Budhuachak, Police Station Athmalgola, District- Patna.
- 22.1. Raunak S/o Late Ajit Kumar Resident of Village- Saistapur, P.S.- Athmalgola, District- Patna.
- 22.2. Rajat Kashyap S/o Late Ajit Kumar Resident of Village- Saistapur, P.S.- Athmalgola, District- Patna.
23. Smt. Malti Devi Wife of Late Shambhu Sharan Singh Resident of Village



Shaistapur, Police Station Athmalgola, District Patna.

24. Saket Sharan Singh Son of Late Shambhu Sharan Singh Resident of Village Shaistapur, Police Station Athmalgola, District Patna.
- 25.1. Dr. Purendra Narain Singh S/o Late Surendra Narain Singh Resident of Village- Saistapur, P.S.- Athmalgola, District- Patna.
- 25.2. Amarendra Kumar S/o Purendra Narain Singh Resident of Village- Saistapur, P.S.- Athmalgola, District- Patna.
- 25.3. Samrendra Kumar S/o Purendra Narain Singh Resident of Village- Saistapur, P.S.- Athmalgola, District- Patna.
26. Smt. Satyabhama Devi Wife of Guru Sharan Singh Resident of Village Shaistapur, Police Station Athmalgola, District Patna.
27. Uma Shankar Singh Son of Sri Guru Sharan Pd. Singh Resident of Village Shaistapur, Police Station Athmalgola, District Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Balbhushan Choudhary, Advocate
For the Respondent/s : Mr. Naman Nayak, A.C. to AAG-13

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 20-03-2024

This writ application has been filed for quashing the order dated 02.03.1993 passed by the Deputy Collector Land Reforms, Barh in Mutation Appeal Case No.06 of 1992-93, by which he has set aside the order dated 29.06.1992 passed by the Circle Officer, Barh, in Mutation Case No.78 of 1991-92 and also ordered to cancel the Jamabandi of the petitioners and open a new Jamabandi in the name of respondent nos.4 to 21 and collect rent from them.

2. Initially, this writ petition was filed by Pashupati Narain Shahi @ Pashupati Shahi but during the



pendency of this writ application, he died and has been substituted by his wife and son. Some of the respondents had also died during the pendency of this case and they have also been substituted by their legal heirs.

3. The petitioners are concerned with the land having an area of 1.15 acres out of the 3.86 acres. The aforesaid land was acquired by the husband of the petitioner no.1 through a registered sale deed executed by Smt. Rama Devi, wife of Babu Birbhadra Prasad Narain Singh of village- Shaistapur, P.S Barh, District-Patna. All the lands in question belong to Mauza-Shaistapur. Out of which, 37 decimal is in plot no.181 of Khata 22, 48 decimal is in plot no. 254 of khata no. 23 and 30 decimal in plot no.184 of khata no. 04.

4. It is the case of the petitioners that in the cadastral survey khatian published in 1908-09, the lands in question were recorded in the name of the ancestors of the respondent nos.4 to 21 but, the ancestors of respondent nos. 22 to 27 were Zamindars of the said mouza and the land in dispute were their bakast land. Although, the land was recorded in the name of the ancestors of respondent nos. 4 to 21 but, it was always in the peaceful cultivating possession of the ancestors of the respondent nos. 22 to 27 till 1948 and till then no claim was



made over the disputed land by the ancestors of the respondent nos. 4 to 21. In the year 1948, a proceeding under Section 145 of the Cr.P.C. was initiated by the S.D.O, Barh and the ex-landlords i.e. ancestors of respondent nos. 22 to 27 were first party and some of respondent nos.4 to 21 and their ancestors were 2nd party in the said proceeding. The ex-landlord and his co-sharers were declared to be in possession of the various plots of the land including the land in question by an order dated 22.04.1949 passed by the then Magistrate 1st Class, Barh.

5. Against the aforesaid order dated 22.04.1949, the so-called raiyat filed Criminal Reference under Sections 435 and 438 of the Criminal Procedure Code, which was registered as Criminal Motion No.114 of 1949 in the Court of Sessions Judge, which was dismissed by order dated 07.05.1949. Thereafter, the so-called raiyat challenged the order dated 22.04.1949 by filing Cr. Revision No. 830 of 1949 but the same was dismissed vide order dated 28.05.1949. After which, no appeal was preferred and therefore, the order dated 22.04.1949 passed by the learned Magistrate has attained its finality.

6. After vesting of Zamindari, one of the ex-landlords namely, Basudeo Narain Singh filed return in favour



of Smt. Rama Devi (respondent no.22) with respect to the land in dispute and accordingly, Jamabandi was created in the name of Smt. Rama Devi and her name was subsequently entered in the revenue records and rent receipts were issued to her and she came in peaceful cultivating possession over the land in dispute. The land in dispute along with other plots were transferred to the husband of the petitioner no.1 namely, late Pashupati Narain Shahi through a registered sale deed dated 19.04.1971 and the name of the husband of the petitioner no.1 was mutated and Jamabandi was created in his name and rent receipts have also been issued in the name of the husband of the petitioner no.1.

7. During the revisional survey, one Ramkishun Ram (original respondent no.4) filed an objection before the authority i.e. the Assistant Settlement Officer in respect of newly carved out Survey Plot nos. 235, 285, 381, 380, 379 and 454 against the husband of the petitioner no.1 and others, which was rejected vide order dated 10.05.1991. The aforesaid order dated 10.05.1991 came to be challenged before the Settlement Officer, Patna, who vide order dated 20.01.1992 rejected the appeals and confirmed the order of the Assistant Settlement Officer in Case No.51 of 1991. Thereafter, respondent nos. 4 to 21, filed separate cases with regard to the plots in dispute along



with other plots before the Circle Officer, Barh bearing Case Nos. 82, 23 & 85 of 1991-92 for grant of rent receipts after fixing rent in their favour. The respondent nos. 4 to 21 had filed several cases tagging several plots in the said mouza for the grant of same reliefs. All the applications were registered as Case Nos. 78 to 87 of 1991-92. The husband of the petitioner no.1 was not arrayed as a party to the said proceedings. The Circle Officer, Barh directed the Anchal Karamchari and Circle Inspector to submit their reports, which was later on submitted and the Circle Officer, Barh vide common order dated 29.06.1992 rejected all the applications. Against the aforesaid common order dated 29.06.1992, the applicants preferred appeals before the D.C.L.R. bearing Mutation Appeal nos.6 to 15 of 1992-93. The D.C.L.R. vide impugned order dated 02.03.1993 allowed the said appeals and directed to collect the rent at the rate of Rs. 10 per acre from the respondent nos. 4 to 21. In the aforesaid proceedings also the husband of the petitioner no.1 was not made a party.

8. Learned counsel for the petitioners submits that the land in question belongs to the husband of the petitioner no.1 who legally purchased the land through registered sale deed dated 18.04.1971 from respondent no.22, who got the land



from the ex-landlord when the ex-landlord filed return in her name after abolishment of zamindari. He further submits that the title of the ex-landlords or ancestors of respondent nos.22 to 27 were confirmed by Court of law in a proceeding under section 145 of the Cr.P.C. vide order dated 22.04.1949, which was affirmed by the Sessions Judge, Patna. After that, a Cr. Revision bearing no. 830 of 1949 was filed by the ancestors of respondent nos.4 to 21, which was also dismissed vide order dated 28.06.1949 affirming the order of the Magistrate 1st class. Thus, the order dated 22.04.1949 has attained its finality.

9. Learned counsel for the petitioner further submits that on the basis of registered sale deed, the name of the husband of the petitioner no.1 was mutated and entered in Register-II but during the revisional survey, one Ram Kishun Ram and one Babu Lal Ram filed an objection in respect of few plots including the land in dispute before the Assistant Settlement Officer, Barh but, the same was rejected vide order dated 10.05.1991. The order of Assistant Settlement Officer came to be challenged before the Settlement officer unsuccessfully. When the ancestors of the respondent nos. 4 to 21 realized that the battle has been lost, they opened a new front of litigation before the Circle Officer for issuance of rent



receipts and cancellation of Jamabandi, the Circle Officer after considering all the aspects of the matter, passed a reasoned order rejecting the mutation petition no.82, 83 & 85 of 1991 citing that there is no concrete evidence with the ancestors of respondent nos.4 to 21 to show that they are in possession of the land but the D.C.L.R. allowed the appeals filed by the ancestors respondent nos.4 to 21 vide order dated 02.03.1993, which is quite arbitrary and illegal on many counts. Firstly; no notice was served upon the husband of the petitioner no.1, who had a long standing Jamabandi in his name as well as no opportunity of hearing was given to the husband of the petitioner no.1. Secondly; the report of Karamchari and Circle Inspector did not mention about the longstanding Jamabandi of the husband of the petitioner no.1 hence, the report of the Karamchari as well as Circle Inspector is a collusive one and should not have been considered. Thirdly; the DCLR in his order also stated about personal inspection on the land in dispute for which no prior notice was given to the petitioners and the alleged inspection is false and collusive act of the DCLR due to extraneous considerations.

10. Learned counsel for the petitioners further submits that the proceeding before the Circle Officer was for



fixation of rent which *prima facie* appears to be contradictory and not maintainable and he also considered an important aspect which is cancellation of existing Jamabandi which is not permissible in the garb of mutation nor the Circle Officer has the jurisdiction to do so. Similarly, the learned D.C.L.R. has no jurisdiction to consider the Jamabandi cancellation matter and pass any order. Several other points raised by the Circle Officer were not considered by the D.C.L.R. and without considering the same, the impugned order dated 02.03.1993 has been passed. So, the mutation case has wrongly been entertained as well as the order passed by the D.C.L.R. in Mutation Appeals is fit to be set aside on this ground alone.

11. Learned counsel for the petitioners also submits that the D.C.L.R. did not have the jurisdiction to pass an order for cancellation of Jamabandi as before coming into force of Mutation Act, 2011 the power to cancel the Jamabandi was not vested with the Revenue Authority.

12. In support of his submissions, he relies upon a decision of this Court rendered in the case of ***Khiru Gope Vs. L.R.D.C*** reported in ***AIR 1983 Patna 121(DB)***, in the case of ***D.N. Jatia vs. State*** reported in ***1990(2) PLJR 819(DB)*** and in the case of ***Harihari Singh Vs. Addl. Collector*** reported in ***1978***



BBCJ 323.

13. Learned counsel for the petitioners lastly submits that the Jamabandi of the husband of petitioner no.1 was running for more than 35 years till 1991 when the dispute arose before the D.C.L.R. and as such, by no stretch of imagination, the DCLR had any power or jurisdiction to cancel the longstanding jamabandi, which has been settled by a series of judgment of this Court. He has relied upon a judgment and order dated 13.09.2022 passed by this Court in ***C.W.J.C. No. 16985 of 2018 (Nathuni Singh and others versus the State of Bihar)***.

14. Learned counsel for the respondent nos. 4 to 21 has submitted that the impugned order dated 02.03.1993 is a well-reasoned order based on the facts and law governing the case. He also submits that the respondent nos. 4 to 21 are in peaceful possession over the land in dispute, which has been confirmed by the report submitted by the Karamchari as well as the Circle Inspector.

15. It has also been submitted that the order passed by the Circle officer dated 29.06.1992 also accepts the fact that the respondents are in possession over the land in dispute but he decided the legality of title of the land which is



outside his jurisdiction and can only be decided by the Competent Civil Court. The proceeding before the Circle Officer was filed for rent fixation over the land in dispute but he converted the application into Dakhil-Kharij Case No.78/91-92 to 87/91-92 and decided the matter beyond his jurisdiction which shows the prejudice.

16. It has further been submitted by learned counsel for the respondent nos. 4 to 21 that the petitioners never showed any documents showing that they are khatiyani raiyat, but the ancestors of the respondent nos. 4 to 21 are khatiyani raiyat and they are in possession over the land and the petitioners have approached this Court without exhausting the alternative remedy of appeal against the order of the D.C.L.R.. The respondent nos. 22 to 27 who got the land after vesting of zamindari never stated that the land in dispute has been transferred to these petitioners and the Jamabandi was never created in the name of the petitioners.

17. It has also been submitted that the proceeding under section 145 Cr.P.C. was for totally different lands than the land in dispute in the present writ proceedings before this Court and neither the respondent nos. 4 to 21 nor their ancestors were party in the said proceeding.



18. I have considered the submissions of the parties and also perused the materials on record.

19. This case was heard and admitted by a Division Bench on 21.05.1993. The plea of alternative remedy cannot be raised by a party once the matter has been admitted for hearing and is being heard after more than 30 years. This Court in the case of ***Tata Iron & Steel Co. Ltd. vs. The State of Bihar & Ors.*** reported in ***1999 (1) PLJR 309 (D.B.)*** has held that once the case has been admitted for hearing, the same cannot be disposed of on the ground of alternative remedy. It will be relevant to quote paragraph nos. 14 and 15 of the aforesaid decision, which read as under:-

“14. However, equally strong reliance has also been placed on behalf of the petitioner on a decision in the case of L. Hirday Narain V/s. Income-Tax Office. Bareilly: AIR 1971 SC 33. After the admission of the writ petition, the petitioner cannot be relegated to avail the alternative remedy. We have already observed that though the matter is kept pending for 18 years but yet the petitions have not been admitted. Thus L. Hirday Narain case (supra), does not help the petitioner. However, this is not all. Recently in Commissioner of Income-tax, Lucknow V/s. U.P. Forest Corporation : (1998) 3 SCC 530, the Apex Court has held that where alternative remedy is available and the same is not exhausted, the writ petition



is liable to be thrown out on this ground alone. But if the matter is kept pending since long and at the very threshold the petition was not disposed of, this ground is not available and instead of resorting the principle of exhaustion of alternative remedy the writ petition requires to be disposed of on merits.

15. *This being so, no doubt the petitions could have been thrown out at the very threshold but since the matter has been kept pending for the last 18 years, it will not be proper in the interest of justice to dismiss the petitions on the ground of non-exhaustion of alternative remedy.”*

20. In the opinion of this Court, the plea of alternative remedy cannot be raised in the present case as this case has been admitted for hearing in the year 1993 and is being heard after more than 30 years.

21. From the record of the case, it appears that the Jamabandi in the name of the husband of the petitioner no.1 was running for more than 35 years till 1991 when the dispute arose before the D.C.L.R. This Court has repeatedly held that longstanding Jamabandi cannot be cancelled in a summary proceeding. In the present case, it is an admitted position that Jamabandi in favour of the husband of the petitioner no.1 is a long standing jamabandi.

22. This Court in the case of ***Nathuni Singh and***



others versus the State of Bihar (supra) has held as under:-

“This Court in the case of Nawal Kishori Devi & others Vs. The State of Bihar & others vide order dated 18.11.2013 passed in CWJC No. 4979 has held as follows:-

"In so far as the issue of the right of ex-intermediary to settle the public land is concerned, the issue stands answered in the judgment of this Court rendered in the case of Musammat Husanbano (supra).

This brings this Court to the main issue raised by the petitioners questioning the action taken by the authorities in initiating proceeding for the cancellation of Jamabandi bearing Case No.1 of 2004-05 and impugned at Annexure-1 to the writ proceedings. There cannot be a contest on the legal position that neither under the Bihar Tenants' Holdings (Maintenance of Records) Act, 1973 nor under the Bihar Land Reforms Act, 1950, there is any provision for cancellation of Jamabandi. Although the Bihar Land Reforms Act in its Section 4 does provide for cancellation of settlement but that is distinct to a cancellation of Jamabandi and the manner is prescribed for such exercise. This issue came up for consideration as back as in the year 1978 when this Court in the case of Harihar Singh reported in 1978 BBCJ 323 held that the authorities have no jurisdiction to cancel the Jamabandi and remove the names of the settlee from the tenants register. A Division Bench of this Court in the case of Khiru Gope (supra) while taking note of the two earlier judgments of this Court



reported 1978 BBCJ 323 (Harihar Singh vs The Additional Collector) and 1979 BBCJ 605 (Jamaluddin Ahmad vs. S. D. O.) held that where the settlee claims settlement under a Hukumnama, there was no authority vested to the Collector to cancel the Jamabandi made in favour of a settlee from an ex-intermediary, the effect whereof would be to cancel the settlement by the ex-intermediary. The Jamabandi in the present case having been created pursuant to a registered settlement, certainly the action of the Collector in directing cancellation of the Jamabandi is in the teeth of the Division Bench pronouncements of this Court. The remedy for the State authorities, if any, certainly was not by way of executive action under the statutory powers rather rested before the civil court of competent jurisdiction for a proper declaration."

In the case of Ramnandan Singh Vs. The State of Bihar, this Court while dealing with the provisions of Section 4(h) of the Bihar Land Reforms Act, 1950, has held that if the State, for any reason, wants to challenge the authority or the title of any person based on settlement made by the ex- landlord then the only option left to the State is to approach the civil court for cancellation of Jamabandi whereas in the present case it is an admitted position that the land was settled by the ex-landlord in favour of the predecessor-in-interest of the petitioners. The ex-landlord after vesting Zamindari, return of Jamabandi was filed and thereafter rent was accepted by the State and the State issued rent receipt and only when land was acquired for compensation, the Jamabandi was enquired into by an illegal order and in most arbitrary



way Jamabandi was cancelled and the same order was affirmed by the Collector in the same casual manner.”

23. Further, the impugned order has been passed by the D.C.L.R. without making the husband of the petitioner no.1 as party though he was the recorded tenant and any proceeding which affects the husband of the petitioner no.1/petitioners cannot be initiated and decided without hearing the affected party. In the present case, the principles of natural justice have been violated. On this score also, the impugned order is fit to be set aside.

24. So far as the jurisdiction of the D.C.L.R., who has passed the order of cancellation of Jamabandi of the petitioners is concerned, the same has been considered as back as in the year 1978 when this Court in the case of ***Harihar Singh VS. Additional Collector*** reported as ***1978 BBCJ 323*** held that the authorities have no jurisdiction to cancel the Jamabandi and remove the names of the settlee from the tenants register. Thereafter, a Division Bench of this Court in the case of ***Khiru Gope vs. Land Reforms Deputy Collector, Jamui*** reported in ***AIR 1983 Patna 121 (DB)*** while taking note of the two earlier judgments of this Court reported in ***1978 BBCJ 323 (Harihar Singh vs. The Additional Collector)*** and ***1979 BBCJ***



605 (Jamaluddin Ahmad vs. S.D.O.) held in paragraph nos. 15

and 16 as under:-

“15. A question similar to the one posed above has fallen for decision by this Court in the case of Harihar Singh v. Addl. Collector (1978 BBCJ (HC) 323). A Bench of this Court noticed the contents of Letter No. 5-LR/RC-1073/693-LR. dated the 8th October, 1969. from the Secretary to the Government of Bihar in the Department of Revenue to all the Collectors, and another letter dated the 25th April, 1959, bearing No. 3354/IR FB-744/1959, to all the Divisional Commissioners, and held that till 1969 new Jamabandis, on the basis of Sada Hukumnamas and rent-receipts granted by the ex-intermediaries, were not only being opened by the approval of the Anchal Adhikari. but were being opened by the Karamcharis themselves, and, as such, it was within the competence of the Anchal Adhikaries to open new Jamabandis in favour of the petitioners. Further it was noticed that the Additional Collector, who had cancelled the Jamabandi, had issued a notice merely directing to produce rent receipts and other papers issued by the ex-intermediaries, and held that by issuing such a notice the learned Additional Collector was not entitled, after hearing the petitioners to cancel the Jamabandi created in their favour. The said case also related to a claim of possession by virtue of a Sada Hukumnama in respect of Gairmazarua Malik land. Harihar Singh's case is a direct authority for the proposition that there is no authority



given to the Collector under the Bihar Land Reforms Act to cancel a Jamabandi made in favour of a settler from the ex-intermediary as also for the proposition that the Anchal Adhikari and the Karamchari were competent to make necessary entries in the tenants' register and open Jamabandi and fix rent in relation to such a settled land in favour of the settler.

16. *The view taken in Harihar Singh's case (1978 BBCJ (HC) 323) has been reaffirmed by another Bench decision of this Court in the case of Jamaluddin Ahmed v. Sub Divisional Officer, Khagaria (1979 BBCJ (HO 605). On the strength of these two Bench decisions of this Court, it is obvious that the Land Reforms Deputy Collector had no jurisdiction or power to cancel the Jamabandi and remove the names of Petitioners Nos. 1 and 2 from the tenants' register; the effect whereof in a way was to cancel the settlement by the ex-intermediary in favour of the Petitioners Nos. 1 and 2."*

25. In view of the above, it is clear that the D.C.L.R. has no jurisdiction or power to cancel the Jamabandi of the petitioners. On this score also, the impugned order is fit to be quashed.

26. Considering the aforesaid facts and also the law laid down by this Court in the case of ***Nathuni Singh vs. State of Bihar*** (supra), ***Khuru Gope vs. Land Reforms Deputy Collector, Jamui*** (supra), I am of the considered view that the



impugned order deserves to be set aside. Accordingly, the impugned order 02.03.1993 passed by the Deputy Collector Land Reforms, Barh in Mutation Appeal Case No.06 of 1992-93 is quashed.

27. This writ petition, is accordingly, allowed with costs.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	22.03.2024.
Transmission Date	

