

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.936 of 2021

1. Nripendra Prasad Singh son of Late Chandra Narayan Prasad Singh resident of Village- Shishiya, Ward No.- 12, Bisaria P.O.- Shishiya, P.S.- Korha, District- Katihar (Bihar).
2. Upendra Prasad Singh son of Late Chandra Narayan Prasad Singh resident of Village- Shishiya, Ward No.- 12, Bisaria P.O.- Shishiya, P.S.- Korha, District- Katihar (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar Land Tribunal through its Registrar, Off Polo Road, Patna.
3. The Additional Collector, Purnea.
4. The Deputy Collector, Land Reforms, Sadar, Purnea.
5. The Circle Officer, K.Nagar, Purnea.
6. Smt. Jayanati Devi W/o Late Parmanand Prasad @ Parmanand Singh resident of Village- Shishiya, P.O.- Shishiya, P.S.- Korha, District Katihar (Bihar).
7. Bipin Kumar Singh son of Late Parmanand Prasad @ Parmanand Singh resident of Village- Shishiya, P.O.- Shishiya, P.S.- Korha, District Katihar (Bihar).
8. Parimal Kumar Singh @ Mukhiya son of Late Parmanand Prasad @ Parmanand Singh resident of Village- Shishiya, P.O.- Shishiya, P.S.- Korha, District Katihar (Bihar).
9. Munni Devi D/o Late Parmanand Prasad @ Parmanand Singh resident of Village- Shishiya, P.O.- Shishiya, P.S.- Korha, District Katihar (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Nath Jha Mr. Bijendra Kumar Singh
For the Respondent/s	:	Ms. Anu Priyadarshni

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 12 29-10-2024 1. Heard learned counsel for the petitioners and learned GP-14, Mr. Dhurjati Kumar Prasad.
2. The learned counsel for the petitioners submits that the instant writ application has been filed seeking



quashing of the order dated 16.06.2020 (Annexure-8) passed by the Member (Administrative), Bihar Land Tribunal, Patna in BLT Case No. 249 of 2019 whereby he has affirmed the order of the Additional Collector dated 22.10.2018 (Annexure-7) in Mutation Revision Case No. 69 of 2017-18, whereby the Additional Collector, Purnea had rejected the revision application affirming the order dated 29.07.2017 (Annexure-5) passed by the DCLR in Mutation Appeal No. 91 of 2014-15 by which he had allowed the appeal of Munni Devi (respondent 2nd party herein) and thus had cancelled the order of mutation dated 10.08.2013 (Annexure-2) passed by the Circle Officer, K. Nagar, Purnea in favour of the petitioners. Further for a direction upon the authorities to restore the order of mutation dated 10.08.2013 with respect to the land in question in favour of the petitioners.

3. The learned counsel appearing on behalf of the petitioners submits that before arguing the case on merits, it is pertinent to briefly state the facts of the case which have relevance for adjudication of the instant dispute. It is next submitted that one Ambika had four sons namely Chandra Narayan Prasad Singh, Swaroop Narayan Singh, Deep Narayan Singh and Ugra Narayan Singh. The land pertaining



to *Khata* No. 93, Plot No. 1946, Area 20.20 acres was recorded in the name of Chandra Narayan Prasad Singh and his brothers in one share in equal share. It is submitted that with respect to the land in dispute, *Jamabandi* No. 93 was created in the name of Chandra Narayan Prasad Singh and his brothers. It is submitted that after the death of Chandra Narayan Prasad Singh, the petitioners, being sons of Chandra Narayan Prasad Singh, applied for mutation of the land in question in their favour by filing Mutation Case No. 1794 of 2013-14 and the same was allowed by an order dated 10.08.2013 creating *Jamabandi* No. 1727.

4. At this stage, the learned GP-14 submits that by order dated 24.10.2024, the Circle Officer, K. Nagar, Purnea was directed to remain physically present before this Court with the entire case records, it is submitted that the Circle Officer, K. Nagar, Purnea is present in the Court with the case records and from perusal of the original record, it would manifest that the Circle Officer, K. Nagar, Purnea had passed order dated 10.08.2013 in Mutation Case No. 1794 of 2013 whereby *Jamabandi* No. 1747 was created in favour of the petitioners, the Circle Officer who is also present in the Court accepts the said submission of the learned GP-14 and thus



learned GP-14 casts an aspersion on Annexure-3 series at Page-24 of the writ application wherein the petitioners have annexed a document showing that vide Mutation Case No. 1794 of 2013-14, *Jamabandi* No. 1727 was created in his favour when the same does not tally with the original records.

5. The learned counsel for the petitioners next submits that O.P. 2nd set in the instant writ application are also part of the family of the petitioners and they contend that land measuring 2.60 acres of Plot No. 1946 came in their exclusive share based on an amicable partition in the family and thus they also filed Mutation Case No. 296 of 2013-14 based on which *Jamabandi* No. 1727 was created by an order dated 29.04.2013 with respect to 2.60 acres of land pertaining to plot no. 1946.

6. At this stage, the learned GP-14 submits that from perusal of the original record, it is clear that *Jamabandi* No. 1727 was created in favour of the private respondents herein vide order dated 29.04.2013 in Mutation Case No. 296 of 2013-14. The learned GP-14, thus, submits that *Jamabandi* No. 1727 was created in favour of the private respondents herein by order dated 29.04.2013 and *Jamabandi* No. 1747 was created in favour of the petitioners by order dated



10.08.2013 in Mutation Case No. 1794 of 2013.

7. The learned State counsel further submits that private respondents against the order dated 10.08.2013 passed by the Circle Officer, K. Nagar, Purnea filed Mutation Appeal No. 91 of 2014-15 before the DCLR, Sadar, Purnea and the same was allowed by an order dated 29.07.2017 (Annexure-5 to the writ application), thereafter petitioners herein filed Mutation Revision Case No. 69 of 2017-18 before the Additional Collector, Purnea against the order dated 29.07.2017 passed by the DCLR, Sadar, Purnea but the revision was rejected by the Additional Collector, Purnea by an order dated 22.10.2018 (Annexure-7), the petitioners against the order dated 22.10.2018 passed by the Additional Collector, Purnea filed BLT Case No. 249 of 2019.

8. It is submitted that the case of the petitioners before the BLT was that there was no amicable partition amongst the parties as is being claimed by the private respondents herein, rather based on an oral partition, the land in dispute came in share of Chandra Narayan Prasad Singh and his brothers, hence, *Jamabandi* No. 93 was opened, thereafter petitioners and their brothers also got separate *Jamabandi* No. 1747 opened in their own name, further Circle



Officer, had allowed Mutation Case No. 1794 of 2013-14 filed by the petitioners and their brothers after issuing notice to all, thereafter *Jamabandi* No. 1747 was created with regard to the land in dispute and rent receipts were issued.

9. The learned counsel appearing on behalf of the petitioners, at this stage, very fairly submits that he has also perused the original documents brought by the Circle Officer, K. Nagar, Purnea and from perusal of the same, it manifests that *Jamabandi* No. 1747 was created in favour of the petitioners and not *Jamabandi* No. 1727.

10. The learned counsel appearing on behalf of the petitioners next submits that husband of respondent no. 6 herein and father of respondent nos. 7 to 9 was Parmanand Singh who was impleaded as O.P. No. 6 before the Tribunal, the O.P. No. 6 before the Tribunal contended that Mutation Case No. 1794 of 2013-14 was filed by father and uncle of the petitioners and others for mutating their name before the Circle Officer, K. Nagar Purnea on the basis of unregistered forged sale deed dated 17.07.1987 allegedly executed by the O.P. No. 6 when the same was never executed by him and thereafter a collusive report was submitted by the *Halka Karmachari*, further after final publication of revisional



survey records of rights, the landed property was amicably partitioned and 5.25 acres of land of plot no. 1946 under the above recorded Revisional Survey Plot No. 93 came in share of O.P. No. 6 and Chhaturbhuj Prasad @ Chaturbhuj Singh, further also contended that *Jamabandi* running in the name of *Jamabandi Raiyat* can only be cancelled by the Additional Collector, as such, *Jamabandi* No. 1727 created by Mutation Case No. 296 of 2013-14 vide order dated 29.04.2013 could not have been cancelled by the Circle Officer, K. Nagar, Purnea.

11. The learned counsel appearing on behalf of the State, at this stage, submits that the learned Administrative Member of BLT after hearing the parties and after perusing the record of Mutation Case No. 1794 of 2013-14, recorded that on 12.06.2013, Rajendra Prasad Singh son of Chandra Narayan Prasad Singh had applied for mutation of the land in question along with the xerox copy of the sale deed, thereafter on 10.06.2013, the Circle Officer issued *Aam Notice*, but there is no compliance report on record, further on 02.08.2013, the Circle Officer, K. Nagar, Purnea again ordered for notice on both the parties, thereafter on 10.08.2013, the son of the applicant appeared and certified the validity of the sale deed,



the order further records that why Rajendra Prasad Singh i.e. the original applicant did not appear is not clear when he was not substituted in the case, further report of the *Halka Karmachari* is also not on record. It is submitted that thereafter the BLT also took into consideration the fact that the sale deed which formed the basis of mutation has not been annexed with the petition, further also recorded that revisional order in Mutation Revision Case No. 69 of 2017-18 passed by the Additional Collector, Purnea wherein it was recorded at Para-23 that in respect of Mutation Case No. 1794 of 2013, *Halka Karmachari* and Circle Inspector have reported that in respect of land measuring 2.50 acres of revisional plot no. 1946 under revisional survey *Khata* No. 93 of *Mauza*, Chapay, *Jamabandi* No. 1727 stands in the name of Parmanand Singh (O.P. No. 6 before the Tribunal) son of Late Jagdamba Prasad Singh.

12. The learned State counsel next submits that the learned Member, BLT after recording the aforesaid facts observed that O.P. No. 6 based on an amicable partition between his brother, he got 2.60 acre of Revisional Survey Plot No. 1946 under Revisional Survey *Khata* No. 93, thereafter *Jamabandi* was created in his name i.e. *Jamabandi*



No. 1727 in pursuance of Mutation Case No. 296 of 2013-14 and if petitioners dispute the said partition between O.P. No. 6 and his brother, they were at liberty to file a civil case or could have filed an appeal against the order of Circle Officer, K. Nagar Purnea in Mutation Case No. 296 of 2013-14 whereby *Jamabandi* No. 1727 was created in favour of the O.P. No. 6.

13. The learned State counsel further submits that since petitioners did not take any of the steps, hence *Jamabandi* No. 1727 created in the name of Parmanand Singh attained finality, as such, the learned Administrative Member, BLT affirmed the revisional order dated 22.10.2018 passed by the Additional Collector, Purnea in Mutation Revision Case No. 69 of 2017-18 and the order dated 29.07.2017 passed by the DCLR, Sadar Purnea in Mutation Appeal Case No. 2014-15, holding that the Circle Officer, K. Nagar, Purnea committed an irregularity and illegality in creating fresh *Jamabandi* in favour of petitioners over the same land by allowing Mutation Case No. 1794 of 2013-14, as pre-existing *Jamabandi* can be cancelled only by Additional Collector in terms of Section 9 of Bihar Land Mutation Act, 2011.

14. The learned State counsel next submits that once *Jamabandi* in favour of the private respondents was created on



29.04.2013 and thereafter the petitioners applied for getting their name mutated over the same land, in that event the Circle Officer, K. Nagar Purnea ought not to have entertained the application of the petitioners for creating *Jamabandi* on the ground that *Jamabandi* in relation to the land was already in existence from before. It is submitted that until and unless the *Jamabandi* in the name of the private respondents was not cancelled by the ADM in terms of the Mutation Act, 2011 new *Jamabandi* in favour of the petitioners could not have been created as one plot cannot have two *Jamabandi*. It is also submitted, at the cost of repetition, that original *Jamabandi* with respect to the land was *Jamabandi* No. 93, thereafter, on 29.04.2013 *Jamabandi* No. 1727 was created in the name of the private respondents and again on 10.08.2013 *Jamabandi* No. 1747 was created in favour of the petitioners which led to dispute.

15. The learned counsel appearing on behalf of the petitioners, at this stage, submits that petitioners had moved before the DCLR, Sadar Purnea by filing Mutation Appeal No. 06 of 2017-18 against the order dated 29.04.2013 in Mutation Case No. 296 of 2013-14 by which *Jamabandi* No. 1727 was created in favour of the private respondents. It is submitted



that the DCLR by his order dated 26.10.2022 (Annexure-10), set aside the order dated 29.04.2013 in Mutation Case No. 296 of 2013-14 whereby *Jamabandi* No. 1727 was created in favour of the private respondents. It is thus submitted that once *Jamabandi* created in favour of the private respondents stands set aside by an authority competent under the mutation act in that event *Jamabandi* No. 1747 created in favour of the petitioners vide Mutation Case No. 1794 of 2013-14 by order dated 10.08.2013 revives, on which the learned counsel appearing on behalf of the State submits that no doubt the submissions made by the learned counsel appearing on behalf of the petitioners on the face of it appears to be attractive, but then is fit to be rejected for the reason that BLT prior to the order passed by the DCLR in Mutation Appeal No. 06 of 2017-18 had already passed the order dated 16.06.2020 (Annexure-8) and had come to a considered conclusion that the order passed in Mutation Case No. 1794 of 2013-14 is *non-est*, as such, the DCLR in subsequent proceedings without advertng to the orders of the BLT could not have taken a decision contrary to what the BLT had decided.

16. The learned State counsel further submits that private respondents filed Mutation Case No. 296 of 2013-14



before the Circle Officer, K. Nagar Purnea based on which *Jamabandi* No. 1727 was created vide order dated 29.04.2013 passed by the Circle Officer in favour of the private respondents, thereafter the petitioners filed Mutation Case No. 1794 of 2013-14 before the Circle Officer, K. Nagar, Purnea in pursuance whereof *Jamabandi* No. 1747 was created by an order dated 10.08.2013 passed by the Circle Officer, K. Nagar Purnea in favour of the petitioners. It is next submitted that private respondents, thereafter, filed Mutation Appeal No. 91 of 2014-15 before the DCLR against the order dated 10.08.2013 in Mutation Case No. 1794 of 2013-14, the Mutation Appeal was allowed by an order dated 29.07.2017 passed by the DCLR, hence order dated 10.08.2013 was set aside. It is submitted that once the DCLR, Sadar, Purnea came to a considered conclusion that order dated 10.08.2013 in Mutation Case No. 1794 of 2013-14 passed in favour of the petitioners is not sustainable, in that event the DCLR ought not to have interfered in Mutation Appeal No. 06 of 2017-18 filed by the petitioners against the order dated 29.04.2013 in Mutation Case No. 296 of 2013-14 which was allowed by an order dated 26.10.2022 passed by the DCLR, as the order dated 26.10.2022 in Mutation Appeal No. 06 of 2017-18 had



the effect of reviving the order dated 10.08.2013 in Mutation Case No. 1794 of 2013-14, when the order of the DCLR dated 29.07.2017 in Mutation Appeal No. 91 of 2014-15 was affirmed by the Additional Collector, Purnea in Mutation Revision Case No. 69 of 2017-18 and subsequently the orders of the DCLR, Sadar, Purnea and the Additional Collector, Purnea were affirmed by the BLT. It is submitted that the order dated 26.10.2022 passed by the DCLR in Mutation Appeal No. 06 of 2017-18 filed by the petitioners against the order dated 29.04.2013 in Mutation Case No. 296 of 2013-14 creating *Jamabandi* in favour of the private respondents amounted to reviewing the order dated 29.07.2017 passed by the DCLR, Sadar, Purnea setting aside the order dated 10.08.2013 passed by the Circle Officer, K. Nagar Purnea.

17. After hearing the learned counsels for the parties, the Court completely concurs with the submissions of the learned counsel appearing on behalf of the State and does not find any infirmity in the order impugned in the present writ application.

17. Accordingly, the instant writ application is dismissed.

18. The personal appearance of the Circle Officer, K.



Nagar, Purnea is dispensed with.

(Satyavrat Verma, J)

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