

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14311 of 2023

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Bansi Lal Yadav, Son of Ramdeo Yadav, Resident of Village and P.O- Kabari,
Police Station- Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Collector, Darbhanga.
3. The Additional Collector, Darbhanga.
4. The Circle Officer, Sadar, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Chandra Mohan Jha, Advocate
For the State : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 06-02-2024

1. Heard learned counsels for the parties.
2. This writ application has been filed for the

following reliefs:-

- I. For setting aside the order dated 28.06.2022 passed by the Additional Collector, Darbhanga in Jamabandi Cancellation Case No. 79 of 2021-22 by which, in exercise of the power under Section 9 of the Bihar Land Mutation Act, 2011, he has cancelled the long standing Jamabandi No. 194 without appreciating and considering the legal as well as factual aspect of the matter.
- II. For direction to the respondent to restore the Jamabandi No. 194 standing in the name of ancestor of the petitioner as the petitioner is in possession over the land in question being the heir and successor in interest of Late Jeochhi Devi (Jamabandi holder).
- III. For grant of any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.”

3. It is submitted by learned counsel appearing on behalf of the petitioner that the present dispute relates to the



land bearing Thana No. 501, Khata No. 27, Plot No. 218, having an area of 2 katha, situated at Mauza- Behat, District- Darbhanga. It is submitted that the Additional Collector, Darbhanga (Respondent No. 3), exercising jurisdiction under Section 9 of the Bihar Land Mutation Act, 2011, read with Bihar Land Mutation Rules, 2012, has failed to appreciate that the jurisdiction is vested to the effect that if any Jamabandi created in violation of any law or in contravention of any executive instruction then he has the jurisdiction to cancel the same after hearing the parties but the long standing Jamabandi which was created on the basis of registered sale deed cannot be cancelled under the Bihar Land Mutation Act, 2011. In support of the same, learned counsel appearing on behalf of the petitioner has relied upon judgment of a Division Bench of this High Court passed in the case of *The State of Bihar through the Collector, Siwan & Ors. versus Harendra Nath Tiwari* reported in **2015 (1) PLJR 606**.

4. On the other hand, learned counsel appearing on behalf of the State submits that the petitioner has already preferred appeal under Section 9 (6) of the Bihar Land Mutation Act, 2011, before the Collector, Darbhanga (Respondent No. 2) on 26.07.2022 vide Jamabandi Cancellation Appeal No. 140 of 2022, which is pending before him for adjudication.



5. It is not in dispute that the petitioner has already filed an appeal bearing Jamabandi Cancellation Appeal No. 140 of 2022 before the Collector, Darbhanga (Respondent No. 2), under Section 9(6) of the Bihar Land Mutation Act, 2011, which is still pending for adjudication. It is a settled law that pursuance of multiple remedy for the same relief before different fora renders the present writ petition not maintainable under Article 226 of the Constitution of India. When the statute has provided an appeal to the higher authority and appeal to the statutory authority has actually been filed, a writ petition filed before this High Court during pendency of the statutory appeal is not maintainable as the petitioner has not exhausted the alternative remedy.

6. In the aforesaid facts and circumstances, the petitioner is directed to pursue the appeal filed under Section 9(6) of the Bihar Land Mutation Act, 2011, bearing Jamabandi Cancellation Appeal No. 140 of 2022, which is pending before the court of learned Collector, Darbhanga (Respondent No. 2), in accordance with law.

7. The Collector, Darbhanga (Respondent No. 2) is directed to dispose of Jamabandi Cancellation Appeal No. 140 of 2022, in accordance with law, after hearing the parties, preferably within a period of three months from the date of



receipt/production of a copy of this order.

8. With the aforesaid observations and directions, this writ application stands disposed of.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.02.2024
Transmission Date	NA

