

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16585 of 2024

Md Sajid, Son of Late Md. Iqbal Resident of House No. 21, Polo Square, P.O-
Danapur Cant, P.S- Danapur, District- Patna, Pin Code-801509.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. Raj Ballabj Kumar, Son of Paras Ray Resident of Mohalla- Saguna, P.S- Danapur, District- Patna, Pin Code-801509.
4. Rajvanshi Singh, Son of Paras Ray Resident of Mohalla- Saguna, P.S- Danapur, District- Patna, Pin Code-801509.
5. Ravindra Kumar, Son of Paras Ray Resident of Mohalla- Saguna, P.S- Danapur, District- Patna, Pin Code-801509.
6. Pramod Kumar, Son of Paras Ray Resident of Mohalla- Saguna, P.S- Danapur, District- Patna, Pin Code-801509.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhanendra Chaubey
For the Respondent/s	:	Mr. Manoj Kumar Ambastha-SC-26 Mr. Divit Vinod- AC to SC-26

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 28-10-2024 1. Heard learned counsel for the petitioner and
learned AC to SC-26 for the State.

2. The learned counsel appearing on behalf of the petitioner submits that the instant writ application has been filed seeking quashing of the order dated 05.04.2024 by the District Magistrate, Patna (Respondent no.2) in Jamabandi Cancellation Appeal No.49 of 2023-24 and analogous Jamabandi Cancellation Appeal No.29 of 2023-24 and Jamabandi Cancellation Appeal No.38 of 2023-24 whereby the respondent



no.2 has passed an ex parte order on the point of condonation of delay and at the same time, has stayed the order impugned in the appeal without even noticing the petitioner.

3. The learned counsel for the petitioner submits that father of the petitioner, Md. Iqbal along with Md. Abbas purchased 01 acre 14 decimals of land pertaining to Tauzi No.C-19, Khata No.323, Plot No.777, Thana No.36 at Mauza-Mustafapur from Shiv Rai, son of Kuldip Rai and Ramashish Rai, Nanhak Rai and Chandeshwar Rai, son of Shiv Rai vide sale Deed No.3990 dated 04.07.1973.

4. It is submitted that when father of the petitioner along with Md. Abbas had purchased the aforesaid land, Jamabandi No.250 was running with respect to the purchased land, but in the Year 1999-2000, New Jamabandi No.345 was created in the name of Md. Iqbal and Md. Abbas. It is next submitted that after the death of the original purchasers of the land in the Year 2017 and 2019 respectively, their legal heirs i.e. petitioner herein and Md. Zahid, son of Late Md. Abbas came in possession of the purchased land jointly. It is further submitted that on the purchased land of the father of the petitioner and Md. Abbas, four illegal Jamabandi being Jamabandi Nos.2714, 2715, 2716 and 2312 were running in the name of Sumit Prakash,



Rajbanshi Singh and Amana Khatun. Accordingly, the Circle Officer, Danapur instituted Jamabandi Cancellation Case No.09 of 2018-19 before the Additional Collector, Patna vide his letter no.539 dated 31.01.2019 for cancelling the aforesaid four Jamabandi numbers running over the purchased land of the petitioner herein.

5. The Additional Collector, Patna on receipt of the record from the Office of the Circle Office pertaining to Jambabandi Cancellation Case No.09 of 2018-19 also instituted Jamabandi Cancellation Case No.203 of 2018-19 and proceeded to hear the case in accordance with law after issuing notice to the parties concerned. It is next submitted that the Additional Collector after hearing the parties by an order dated 01.09.2023 cancelled the Jamabandi Nos.2714, 2715, 2716, 2312 and 169 with certain directions to the Circle Officer, Danapur and to restore the Jamabandi 345/441 for an area of 01 acre 14 decimals as created earlier till decision of the Title Suit.

6. The learned counsel for the petitioner submits that the orders passed by the Additional Collector dated 01.09.2023 was challenged before the Collector, Patna in Jamabandi Cancellation Appeal No.29 of 2023-24, Jamabandi Cancellation Appeal No.38 of 2023-24 and Jamabandi Cancellation Appeal



No.49 of 2023-24 as the District Magistrate is the Appellate Authority under the Bihar Land Mutation Act, 2011. The learned counsel for the petitioner submits that the Collector, Patna vide his order impugned dated 05.04.2024 not only condoned the delay, but also stayed the operation of the order passed by the Additional Collector dated 01.09.2023.

7. The learned counsel for the petitioner thus submits that petitioner is aggrieved by the interim order passed by the Collector dated 05.04.2024, as from perusal of the order dated 05.04.2024, it would manifest that though it has condoned the delay and has granted stay, but then, no notice has been issued upon the petitioner herein. It is thus submitted that in absence of any notice being issued on the petitioner the case will remain pending before the Collector and cannot be adjudicated in absence of the petitioner. The learned counsel next submits that the petitioner on coming to know about the pendency of the aforesaid appeal before the Collector has suo motu appeared in the case and has filed his *vakalatnama*.

8. The learned counsel appearing on behalf of the State submits that the writ application can be disposed of with a direction to the Collector to dispose of the Jamabandi Canecellation Appeal Cases within a time fame.



9. The Court prima facie is in concurrence with the submissions made by the learned counsel appearing on behalf of the petitioner that the order impugned dated 05.04.2024 is vulnerable for the reason that from perusal of the same, it does not even remotely reflect that notice upon the petitioner has been issued and without issuing notice, the order of the Additional Collector dated 01.09.2023 has been stayed and at the same time, the delay has been condoned without hearing the petitioner.

10. After hearing the learned counsel for the parties, the Court comes to a prima facie conclusion that the order impugned dated 05.04.2024 passed by the Collector is not sustainable, as such, the same is set aside and the matter is remanded back to the Collector to decide the issue of limitation and stay afresh after hearing the parties preferably within a period of three months from the date of receipt/production of a copy of this order.

(Satyavrat Verma, J)

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