

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16269 of 2024

1. Ram Naresh Roy Son of Muneshwar Roy, Resident of Makan No. 93 Ka, Ward No. 44, Shahganj, Benta Ahila, P.S.-Laheriasarai, District-Darbhangha.
2. Nand Kumar Jha, Son of Mahadev Jha, resident of Alpura, Tajpur, P.S.-Laheriasarai, District-Madhubani.
3. Shruti Kumari @ Shruti Jha Wife of Sri Mukesh Kumar Jha, Resident of Village-Harari, P.S.-Rudrapur, District-Madhubani.
4. Ganesh Kumar Mishra, Son of Umakant Mishra, Resident of Shaganj Benta, New Balbhadarpur, Ahila, P.S.-Laheriasarai, District-Darbhangha.
5. Dr. Kumari Soni @ Kumari Soni Wife of Bharat Kumar, Resident of Village-Sidhauli, Pargana-Sahaura, P.S.-Ashok Paper Mill, District-Darbhangha.
6. Amit Kumar Ambasta, Son of Awadhesh Kumar Verma, Resident of C/o Dr. R.N.P. Sinha, Sinha Janch Ghar, Behind Pediatrics Ward, D.M.C.H., Ahila, P.S.-Laheriasarai, District-Darbhangha.
7. Mahendra Kumar Yadav, Son of Shivshankar Yadav, Resident of 64(2), Pani Tanki, DMCH Campus, Ahila, P.S.-Laheriasarai, District-Darbhangha.
8. Birendra Kumar Yadav, Son of Shiv Shankar Yadav, Resident of Mohalla-Shahganj Benta, P.O.-D.M.C. Ahila, P.S.-Laheriasarai, District-Darbhangha.
9. Sangita Jha, Wife of Sri Raman Jee Jha, Resident of Village-Naruar, P.S.-Bhairavsthan, District-Madhubani.
10. Ram Milan Thakur, Son of Dhanush Dhari Thakur, Resident of Village-Baragaon, Dahibhat, P.S.-Madhopur, District-Madhubani.
11. Anusueya Devi, Wife of Dineshwar Narayan Singh, Resident of Ward No. 5, Basudeopur Chandel, P.S.-Mahnar, District-Vaishali.
12. Rani Rai, wife of Om Prakash Ray, Resident of Mohalla-Benta, P.O.-D M C Campus, Ahila, P.S.-Laheriasarai, District-Darbhangha.
13. Pawan Kumar Maharaj, Son of Shobhakant Maharaj, Resident of Village-Shahganj Benta, Ward No. 35, Ahila, P.S.-Laheriasarai, District- Darbhanga.
14. Subhash Rai, Son of Anup Lal Rai, Resident of Near River, Neyam Chatauna, Neam, P.S- Laheriasarai, District-Darbhangha.
15. Chandeshwar Ray, Son of Shiv Dayal Ray, Resident of Ward No. 10, Near Utkramit Madhya School, Neyam, Hayaghat, P.S-Laheriasarai, District-Darbhangha.
16. Nikhil Ranjan, Son of Nitendra Thakur, Resident of Village-Ratanpur Abhiman, P.S.- Ratanpur, District-Darbhangha.
17. Pinki, wife of Maya Nand Prasad, Resident of D-197, 2nd Floor, House No. 09, C R Road, Near Metro Station Laxmi Nagar, Shakarpur Baramad, P.S.-Shakarpur, District-East Delhi.
18. Tek Narayan @ T Narayan, Son of Bishwanath Prasad, Resident of J-94a, Gali-5, Laxmi Nagar, Shakarpur Baramad, P.S.-Shakarpur, District-East Delhi.



19. Maya Nand Prasad, son of Bishwanath Prasad, D-197, 2nd Floor, Gali No. 9, CR Road, Laxmi Nagar, Shakarpur Baramad, P.S.-Shakarpur, District-East Delhi.
20. Pooja Kumari, Wife of Suman Kumar, Resident of Ward No. 44, Shahganj Beta, Balbhadrapur, P.S.-Laheriasarai, District-Darbhangha.
21. Manisha Kumari wife of Prabhakar Kumar, resident of village- Baghra, P.S. Baheri, district- Darbhanga, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Additional Chief Secretary-cum-Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga.
4. The District Magistrate-cum-Collector, Darbhanga.
5. The Additional Collector, Darbhanga.
6. The Deputy Collector Land Reforms, Darbhanga.
7. The Sub Divisional Officer Sadar, Darbhanga.
8. The Circle Officer, Bahadurpur, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binodanand Mishra, Advocate
For the Respondent/s : Mr. Government Pleader-2

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 24-10-2024

Heard Sri Chitranjan Sinha learned Senior Counsel for the petitioners and learned AC to GP-2.

2. Learned Senior Counsel before making submissions on merits of the case straightway draws the attention of the Court to Section 9 of the Bihar Land Mutation Act, 2011 which incorporates cancellation of Jamabandi.

“9. Cancellation of Jamabandi .- (1) The Additional Collector, either suo motu or on an application, shall have the power to make inquiries in respect of any Jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. The Additional Collector, in



whose jurisdiction the land is situated, may, after giving reasonable opportunity to the parties concerned to appear, adduce evidence and be heard, cancel such Jamabandi, dispossess the person claiming under it and deliver the possession to the legitimate owner/custodian, on such terms as may appear to the Additional Collector to be fair and equitable.

(2) The jamabandi shall not be cancelled under sub-section (1) without giving reasonable opportunity to the parties, having interest in that jamabandi, of being heard.

(3) Any person, having interest in a land or a part thereof, of any jamabandi may file a petition in the prescribed manner for the cancellation of the jamabandi before the Additional Collector in whose jurisdiction the land or a part thereof is situated.

(4) The Additional Collector, in whose jurisdiction the land or a part thereof of the jamabandi is situated, on a petition filed for the cancellation of the jamabandi or on reference from a Government Department which has an interest in the land or a part thereof or suo motu, may initiate proceedings for cancellation of the jamabandi by issuing notice to persons having interest in the jamabandi.

(5) The Additional Collector in whose jurisdiction the land or a part thereof in the jamabandi is situated, after enquiry either by himself or by an officer authorized by him in this behalf, shall pass such order as he deems fit.

(6)(a) An Appeal against the order of the Additional Collector shall lie with the Collector of the district within thirty (30) days of the order appealed against.

(b) The Collector of the district may condone the delay in filing appeals provided he is satisfied that there are sufficient reasons for the delay.

(c) The Collector of the district shall not pass any order modifying, altering or setting aside the order appealed against unless the concerned parties have been given a reasonable opportunity of being heard.



(7)(a) An application for revision may be filed before the Commissioner of the Division by any person aggrieved by an order of the Collector of the district within 30 days from the date of such order.

(b) The Divisional Commissioner may condone the delay in filing of application for revision provided he is satisfied that there are sufficient reasons for the delay.

(c) The Divisional Commissioner may on an application made to him on this behalf or for the purposes of satisfying himself as to the legality or propriety of any order made under this Act or the rules made thereunder by an officer or authority, call for and examine the records of any case pending before or disposed of by such officer or authority and pass such order as he deems fit.

(d) The Divisional Commissioner shall not pass any order modifying, altering or setting aside an order of any authority or officer unless the concerned parties have been given reasonable opportunity of being heard”.

3. Learned Senior Counsel submits that from bare perusal of Section 9 of the Mutation Act, it would manifest that the same authorizes the Additional Collector either suo motu or on an application to make inquiry in respect of any Jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. It is submitted that the power of the Additional Collector is not in dispute but then if a proceeding initiating cancellation of Jamabandi is initiated, in that event, the Additional Collector shall have to record reasons in the notice based on which the proceeding has been initiated.



4. Learned Senior Counsel thereafter submits that the instant writ application has been filed seeking quashing of the notice contained in Memo No. 698 dated 29.08.2024 issued by the Additional Collector, Darbhanga whereby petitioners have been asked to appear before him on 25.10.2024, on the basis of letter no. 2433 dated 26.12.2023 issued by the Circle Officer, Bahadurpur by which Jamabandi Cancellation Case No. 173 of 2024 has been initiated against the petitioners.

5. Learned Senior Counsel thereafter draws the attention of the Court to Annexure-24 to the writ application i.e. the Memo No. 698 dated 29.08.2024 whereby notice has been issued to the petitioners for appearing before him as proceeding for cancellation of Jamabandi has been initiated. Learned Senior Counsel, thus, submits that from perusal of the memo dated 29.08.2024, it would manifest that the same merely records that petitioners are informed that Circle Officer, Bahadurpur vide his letter no. 2433 dated 26.12.2023 has recommended for cancelling the Jamabandi of the land pertaining to Mauza Balbhadrapur, Thana No. 534, Khata No. 491, Khesra No. 2521. It is further submitted that the notice does not even remotely disclose the grounds on which the notice has been issued for cancellation of Jamabandi of the petitioners. It is next submitted that the law



mandates that the Jamabandi can be cancelled only if it has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf but then the notice is completely silent on that issue, as such, submits that the notice is vague.

6. Learned counsel appearing on behalf of the State is not in a position to rebut the submissions of the learned Senior Counsel appearing on behalf of the petitioners that the notice does not disclose the reason based on which the same has been issued initiating a proceeding for cancellation of Jamabandi of the petitioners.

7. After hearing the learned counsel for the parties, the Court, prima facie, is of the view that notice has been issued without recording the reason based on which Jamabandi cancellation case has been instituted as the notice does not record that as to which law or executive instruction were violated when initially the Jamabandi was created, as such, the notice appears to be vague. Accordingly, the notice contained in Memo No. 698 dated 29.08.2024 issued by the ADM, Darbhanga asking the petitioners to appear before him in respect of Jamabandi Cancellation Case No. 173 of 2023-24 is hereby quashed.

8. The writ application is allowed.



9. However, the authorities would be at liberty to proceed against the petitioners in accordance with law.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	24.10.2024
Transmission Date	

