

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.169 of 2024

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Smt. Anju Devi W/o Vedanand Yadav Resident of Village-Vishwapuriya
Krishnanagar, P.S. Kharik, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Distirct Magistrate, Bhagalpur
2. The Additional Collector, Bhagalpur
3. The Deputy Collector Land Reform, Nawgachhiya, District-Bhagalpur.
4. The Circle Officer Kharik, District-Bhagalpur
5. Lalit Kumar Yadav @ Sanjay Yadav Son of Sri Moti Yadav Resident of Village-Dhodhiya, Circle-Kharik, P.S. Kharik, District-Bhagalpur.
6. Rajendra Yadav Son of Sri Moti Yadav Resident of Village-Dhodhiya, Circle-Kharik, P.S. Kharik, District-Bhagalpur.
7. Pintu Kumar Son of Sri Moti Yadav Resident of Village-Dhodhiya, Circle-Kharik, P.S. Kharik, District-Bhagalpur.
8. Priyanshu Yadav @ Ranjeet Yadav Son of Sri Moti Yadav Resident of Village-Dhodhiya, Circle-Kharik, P.S. Kharik, District-Bhagalpur.
9. Smt. Vibha Devi W/o Sri Rajeev Kumar Rakesh Resident of Village-Dhodhiya, Circle-Kharik, P.S. Kharik, District-Bhagalpur.
10. Most. Sarojani Devi W/o Late Sulendra Yadav Resident of Village-Kapasiya, P.S. Ratwara, District-Madhepura.
11. Jitendra Kumar S/o Late Sulendra Yadav Resident of Village-Kapasiya, P.S. Ratwara, District-Madhepura.
12. Kundan Kumar S/o Late Sulendra Yadav Resident of Village-Kapasiya, P.S. Ratwara, District-Madhepura.
13. Babu Saheb Kumar S/o Late Sulendra Yadav Resident of Village-Kapasiya, P.S. Ratwara, District-Madhepura.
14. Domi Yadav S/o Late Govind Yadav Resident of Village-Bhawanpura, P.S. Kharik, District Bhagalpur
15. Ranjana Devi W/o Sri Sarjan Yadav Resident of Village-Bhawanpura, P.S. Kharik, District Bhagalpur
16. Krishnanand Singh Son of Late Rajendra Singh Resident of Village-Telghi, P.S. Kharik, District Bhagalpur
17. Ram Bilas Singh Son of Late Pran Mohan Singh Resident of Village-Telghi, P.S. Kharik, District Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur, Advocate Ms. Priyam Kumari, Advocate
For the State	:	Smt. Binita Singh (SC- 28)
For Res. No. 6	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate Mr. Shashank Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

3 09-05-2024 Heard Mr. Surendra Kishore Thakur, learned counsel for the petitioner as also Mr. Ranjan Kumar Dubey, learned counsel for the respondent no. 6 and the State.

2. This application has been preferred for the following reliefs:

(i) for issuance of appropriate writ in the nature of certiorari for quashing of the order dated 19.10.2023 passed by the Chairman, Bihar Land Tribunal, Patna in B.L.T. Case No. 468/2022 whereby and where under the Hon'ble Chairman, Bihar Land Tribunal, Patna has allowed the B.L.T. Case No. 468/2022 setting aside the order dated 22.10.2019 passed in Mutation Appeal No. 72/2019-20 and also setting aside the order dated 29.03.2022 passed in Mutation Revision Case No. 82/2020-21 wrongly appreciating that the Deputy Collector Land Reform has no power to cancel the Jamabandi without considering that in fact the Deputy Collector Land Reform has not cancelled the Jamabandi rather has set aside the order passed by the Circle Officer while seating in appeal against the mutation order;

(ii) for further direction to the Respondent Circle Officer to act upon the



order of the Deputy Collector Land Reform whereby while allowing the appeal the Deputy Collector Land Reform has ordered to make spot verification that who is in possession over the land in question and accordingly pass an order for mutation.

3. The matter relates to a piece of land Khata No. 462 Plot No. 2573 measuring an area 7 1/2 decimal. The petition of the petitioner for mutation of the land was rejected by the Circle Officer, Kharik, Bhagalpur on 05.07.2019 (Annexure-P/3 to the petition) on the ground that in Khesra no. 2573, no land of the petitioner remains.

4. Aggrieved, he preferred Mutation Appeal No. 72/2019-2020 before the DCLR, Naugacchia. It was allowed vide an order dated 22.10.2019 (Annexure-P/4 to the petition) and the DCLR, Naugacchia directed the Circle Officer concerned to enquire relating to the possession and pass order accordingly.

5. Now, it was the turn of the respondents to move before the Additional Collector, Bhagalpur in Mutation Revision No. 82/2020-21 which was rejected on 29.03.2022 (Annexure-P/6 to the petition).

6. Still aggrieved, the respondents moved in BLT Case No. 468 of 2022 before the Bihar Land Tribunal, Patna and after



taking note of the entire facts, the BLT passed order in favour of the said respondents and paragraphs 30 and 31 read as follows:

30. This Tribunal finds that learned D.C.L.R. has no jurisdiction to cancel the running jamabandi. The learned Additional Collector in mechanical manner without appreciating the facts of case has affirmed the order of learned D.C.L.R. The sale deed executed in favour of opposite party nos. 6 and 7 by Krishnanand Singh in the year 2011 has never been challenged by opposite party no. 5. Similarly the opposite party no. 5 has not challenged the sale deeds executed in favour of petitioners in the year 2013-14 by opposite party nos. 6 and 7. The opposite party no. 5 is making claim over the land in question on the basis of sale deed executed in her favour on 19.03.2019 by Ram Bilash Singh, son of Pran Mohan Singh (O.P. No. 9). The aforesaid land was already sold earlier by Krishnanand Singh, son of Rajendra Prasad Singh by sale deed dated 20.08.2011 in favour of opposite party nos. 6 and 7. The jamabandi was also created in their favour vide Jamabandi No. 2478. The opposite party nos. 6 and 7 subsequently sold the land in dispute between year 2013 and 2014 by different sale deeds to petitioners. Jamabandi Nos. 2806, 2876 and



2886 were created in favour of petitioners on the basis of aforesaid sale deeds. The petitioners are making payment of rent to the State of Bihar and getting rent receipt. The learned D.C.L.R. has committed illegality in cancelling running jamabandi of petitioners by order passed in Mutation Appeal No. 72 of 2019-20 filed by opposite party no. 5. The learned D.C.L.R. has also illegally decided the share of party which is beyond his jurisdiction.

31. Therefore, the impugned order passed by learned D.C.L.R. Navgachia in Mutation Appeal No. 72 of 2019-20 dated 22.10.2019 and order passed by learned Additional Collector, Bhagalpur in Mutation Revision Case No. 82 of 2020-21 dated 29.03.2022 are illegal and not in accordance with law. Accordingly, the orders passed by learned D.C.L.R. Navgachia and Additional Collector, Bhagalpur are hereby set aside.

This application is accordingly allowed.”

7. Mr. Thakur, learned counsel for the petitioner submits that though, admittedly, the DCLR has no power to cancel the Jamabandi, in this case, he had subsequently directed the C.O. to get the matter enquired and pass the mutation order accordingly.



8. In that background, the Additional Collector rightly dismissed the Revision of the other side. However, the BLT erred in allowing the petition.

9. Mr. Ranjan Kumar Dubey, learned counsel representing respondent no. 6 has taken this Court to paragraph 30 to show that the BLT has given reason for allowing the petition and the writ petition in that background is fit to be dismissed.

10. This Court has also gone through the orders right from the Circle Officer, Kharik upto the BLT and the Tribunal has given reasons which in the opinion of the Court, is fully justified.

11. The aggrieved party still has the opportunity of getting the matter settled before a competent Civil Court. So far as the order of the BLT is concerned, this Court do not find any anomaly in it.

12. The writ petition stands dismissed.

(Rajiv Roy, J)

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