

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7587 of 2024

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1. Ram Swarup Mukhiya Son of Late Gulebi Mukhiya, R/o Village Jhahuri, Tole- Dhobiyahi, P.S- Laukahi, Dist- Madhubani.
 2. Ram Sewak Mukhiya, Son of Late Gulebi Mukhiya, R/o Village Jhahuri, Tole- Dhobiyahi, P.S- Laukahi, Dist- Madhubani.
 3. Ram Chandra Mukhiya, Son of Late Gulebi Mukhiya, R/o Village Jhahuri, Tole- Dhobiyahi, P.S- Laukahi, Dist- Madhubani.
 4. Ram Balak Mukhiya, Son of Late Gulebi Mukhiya, R/o Village Jhahuri, Tole- Dhobiyahi, P.S- Laukahi, Dist- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. The Additional Collector, Madhubani.
3. The Anchal Adhikari, Laukahi, District Madhubani.
4. The District Fisheries Officer cum Chief Executive Officer, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Sri Ganpati Trivedi, Sr. Advocate Sri Madan Mohan, Advocate Sri Saurabh Suman, Advocate Sri Ritik Shah, Advocate
For the Respondent/s	:	Sri Jitendra Kumar, AC to Ex-AAG-11

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 06-02-2025 Heard Sri Ganpati Trivedi, learned Senior Counsel for
the petitioners and learned AC to AAG-9 for the State.

2. Learned counsel appearing on behalf of the State at the outset submits that the petitioners have rushed to this Court against the order impugned in the instant writ application when they have alternative remedy of appeal before the Collector on which learned Senior Counsel submits that the land in dispute is raiyati land of the petitioners and the same was settled with their



ancestors in the year 1925 and even Jamabandi was created but the land for reasons best known to the authority was wrongly entered in the Sairat Register as Sairat land. It is further submitted that since the land in dispute in the instant writ application was registered in the Sairat Register as such the same necessitated the petitioners herein to file Title Suit No. 26 of 2004 before the learned Sub-Judge-III, Jhanjharpur. It is next submitted that in the title suit, the State of Bihar through the Collector was also a party defendant. It is submitted that the petitioners lost the suit against which they filed title appeal before the learned District Judge, Madhubani being Title Appeal No. 61 of 2008 and the same was transferred to the Court of learned Additional District Judge-IV, Madhubani for adjudicating the appeal. It is further submitted that in appeal also the State of Bihar was impleaded as respondent. It is next submitted that the appellate court set aside the judgment and decree passed in the Title Suit No. 26 of 2004 and declared the right, title and possession of the petitioners over the land in dispute in the instant writ application and also directed the authorities to remove the land in dispute from the Sairat Register by judgment dated 29.09.2022 and, accordingly, decree dated 11.10.2022 was prepared.



3. Learned Senior Counsel for the petitioners submits that the judgment and decree passed in the Title Appeal No. 61 of 2008 was not given effect to by the authorities based on the representation, as such, the petitioners moved before this Court by filing C.W.J.C. No. 12257 of 2023 with a prayer that the respondent-authorities be directed to delete the Plot No. 2873 under Khata No. 432 measuring an area of 1 Bigha, 16 Katha 9 Dhurs, Plot No. 1253 under Khata No. 274 measuring an area of 1 Bigha, 4 Katha 2 Dhurs, Plot No. 542 under Khata No. 143 measuring an area of 1 Bigha, 16 Katha 12 Dhurs and Plot No. 49 under Khata No. 143 measuring an area of 3 Bigha, 8 Katha 10 Dhurs from the Sairat Register as the petitioners have got a decree from the appellate court in their favour. It is further submitted that this Court disposed of C.W.J.C. No. 12257 of 2023 by an order dated 18.09.2023 with a direction to the petitioners to appear before the Divisional Commissioner, Darbhanga along with the order and the Divisional Commissioner, Darbhanga was directed to pass order on representation of the petitioners filed on 14.03.2023 within a period of 15 days.

4. Learned Senior Counsel for the petitioners submits that the petitioners, accordingly, in terms of the order dated



08.09.2023 passed by this Court in C.W.J.C. No. 12257 of 2023, approached the Commissioner, Tirhut Division, Darbhanga on 18.09.2023, thereafter the Commissioner, Tirhut Division, Darbhanga on 30.09.2023 issued a letter directing the District Magistrate, Madhubani to produce all the documents with respect to the said dispute by fixing the next date of hearing as 07.10.2023.

5. Learned Senior Counsel for the petitioners next submits that thereafter no action was taken and all of a sudden, the petitioners were served with a notice with respect to cancellation of their Jamabandi with respect to the land in dispute in the instant case on 09.10.2023. It is further submitted that the petitioners appeared in Jamabandi Cancellation Case No. 42 of 2024, 43 of 2024 and 44 of 2024 and submitted documents in support of their claim that the land in question is raiyati land and judgment and decree of the appellate court is in their favour but still the Additional Collector proceeded to cancel the Jamabandi with respect to the land in question standing in the name of the petitioners by a common order dated 20.12.2024 (Annexure-7 series) which is impugned in the writ application.

6. Learned Senior Counsel for the petitioners, thus,



submits that the Additional Collector did not appreciate the facts of the case in its correct perspective that judgment and decree in Title Appeal No. 61 of 2008 was in favour of the petitioners and the State of Bihar through the Collector was impleaded as a party respondent in the Title Appeal. It is thus submitted that the Additional Collector gave a complete go by to the judgment and decree in Title Appeal No. 61 of 2008 which he could not have done as the Revenue Authorities cannot go beyond the order passed by the learned Civil Court. It is fairly submitted that no doubt, a Second Appeal against the judgment and decree in Title Appeal No. 61 of 2008 is pending before this Court for adjudication but then the same has not been filed at the instance of the State but by a private respondent.

7. Learned counsel appearing on behalf of the State at this stage thus submits that what has been pleaded on behalf of the petitioners by the learned Senior Counsel before this Court, the same grounds could have been raised before the Collector in appeal and the Collector would have decided the case in accordance with law.

8. Considering the submissions made by the learned counsel appearing on behalf of the State, the Court does not feel persuaded to entertain the writ application. Since the petitioners



have remedy of appeal, revision and before the Bihar Land Tribunal against the order impugned, as such, rushing to this Court was uncalled for, hence, the Court is not inclined to entertain the writ application.

9. At this stage, learned Senior Counsel for the petitioners seeks permission to withdraw the writ application with liberty to avail their remedy in accordance with law before the authority competent.

10. Permission is accorded.

11. Accordingly, the instant writ application is dismissed as withdrawn.

12. However, it is made clear that if any issue of limitation will arise the authority competent shall keep in mind that petitioners were pursuing their remedy before this Court.

(Satyavrat Verma, J)

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