

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10030 of 2022

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Vidya Singh, wife of Sri Sanjeev Kumar Singh, resident of Purani Bypass,
Bakhtiyarpur, P.S.- Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector, Patna.
4. The Additional Collector, Patna.
5. The Circle Officer, Bakhtiyarpur, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh- Advocate
For the State : Mr. Sajid Salim Khan- SC-25

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

10.02.2025

1. Heard learned counsel for the petitioner and learned Standing Counsel-25 for the State.

2. The learned counsel for the petitioner submits that the land in dispute pertains to a plot of land appertaining to Khata No.153, Plot No.1153, Thana No.138, Mauza- Madhopur, P.S. Bhaktiyarpur, District- Patna. It is submitted that the aforesaid land was recorded in the name of Kali Charan Mahto as would manifest from the Khatian annexed as Annexure-6 to the supplementary affidavit. It is further submitted that the plot measured 40 decimals.

3. It is next submitted that Kali Charan Mahto



sold 28 decimals of land of Plot No.1153 from Southern Side to Ram Kishun Sah vide registered sale deed no.3402 dated 25.07.1933 (Annexure-7 to the supplementary affidavit) and Ram Kishun Sah thereafter came in peaceful possession of his purchased land and Jamabandi No.586 was created.

4. At this stage, the learned Standing Counsel-25 submits that though it is not on affidavit, but he has instructions to make submission that Jamabandi No.586 was never created in the name of Ram Kishun Sah and for that he has written instruction of Circle Officer, Bakhtiyarpur.

5. The learned counsel for the petitioner next submits that after the death of Ram Kishun Sah, 28 decimal of land pertaining to Plot No.1153 stood recorded in the name of his only son Braham Dutta Prasad. Braham Dutta Prasad had two sons, namely, Sunil Dutta and Guru Dutt in an amicable partition of the property of Braham Dutta Prasad including 28 decimals of land pertaining to Plot No.1153 area 03 kattha, 14 Dhur, 04 Dhurki of plot no.1153 fell in the share of Sunil Dutt and 05 Kattha, 05 Dhur of Plot No.1153 remained in the share of Braham Dutt. It is submitted that Guru Dutt did not get any share in the Plot No.1153.

6. It is submitted that Sunil Dutt sold 03 katha,



14 Dhur, 04 Dhurki of land pertaining Plot No.1153 to Sanjeev Kumar Singh (husband of the petitioner herein) by sale deed no.21968 dated 28.08.2010 and Sanjeev Kumar Singh came in peaceful possession of his purchased land and Jamabandi No.17 was created. It is further submitted that 03 kattha, 05 Dhur of Plot No.1153, purchased by Sanjeev Kumar Singh was acquired for NH-31 (Bakhtiyarpur-Khagaria Four Lane) and compensation of Rs.1373389.89 was paid to Sanjeev Kumar Singh as would manifest from the notice dated 20.03.2017 (Annexure-1 to the writ application). The learned counsel for the petitioner pause for a while and submits that since the land purchased by Sanjeev Kumar Singh from Sunil Dutt was acquired by the NH-31 for which he received compensation that in itself demonstrates that there was no objection from the side of the State with respect to title of the land in question pertaining to Plot No.1153.

7. The learned counsel for the petitioner next submits that Braham Dutt Prasad executed registered general power of attorney dated 19.05.2010 (Annexure-9 to the supplementary affidavit) in favour of Sanjeev Kumar Singh with regard to 05 kattha, 05 Dhur of land of Plot No.1153. Further, Braham Dutt through his attorney Sanjeev Kumar Singh



transferred 03 Kattha, 01 Dhur, 04 Dhurki (5.46875 decimal) of Plot No.1153 to Vidya Singh (petitioner) by a registered sale deed no.6208 dated 22.11.2010 (Annexure-10 to the supplementary affidavit). It is next submitted that petitioner after purchasing 03 kattha, 01 Dhur, 04 Dhurki of land pertaining of Plot no.1153 applied for mutation and the same was allowed by the Circle Officer, Bakhtiyarpur and Jamabandi No.18 was created in the name of the petitioner and she started paying rent as would manifest from rent receipt annexed as Annexure-11 series to the supplementary affidavit. It is next submitted that Jamabandi No.17 was created in the name of Sanjeev Kumar Singh and Jamabandi No.18 was created in the name of petitioner were an offshoot of Jamabandi No.586 created in the name of Ram Kishun Sah. It is further submitted that this perhaps explains why when the land was acquired by the NHAI for construction of NH-31, no objection was raised by the State disputing the title of the land in favour of Sanjeev Kumar Singh.

8. The learned counsel for the petitioner next submits that petitioner sold 01 kattha, 02 Dhur (3.4375 decimal) of land pertaining to Plot No.1153 which she had purchased from Braham Dutt to Deena Nath vide registered sale deed



dated 11.06.2014. It is submitted that Deena Nath after purchasing 01 kattha, 02 Dhur of land of Plott no.1153 from the petitioner got the same mutated and accordingly, Jamabandi No.26 was created and he started paying the rent to the State of Bihar and constructed a double storyed residential building over the land and started living there with his family. It is submitted that Jamabandi No.26 of Deena Nath Singh was cancelled by an order dated 28.02.2022 in Jamabandi Cancellation Case No.177 of 2021-2022 passed by the Additional Collector, Patna and a land encroachment case no.10/ 2020-21 was also initiated earlier.

9. The learned counsel submits that though jamabandi of Deena Nath has been cancelled, but then, Jamabandi No.18 in the name of petitioner with respect to left over land after selling to Deena Nath is still existing. It is also reiterated and submitted that since Jamabandi No.18 is an offshoot of Jamabandi No.586 created in the name of Ram Kishun Sah as such, the authority could not have cancelled the jamabandi standing in the name of Deena Nath as the same was also an offshoot of long standing jamabandi in a summary proceeding, on which the learned counsel appearing on behalf of the Standing Counsel-25 submits that Deena Nath neither



challenged the land encroachment proceeding which was initiated against him with respect to 3.4375 decimals of land nor he challenged the order passed by the Additional Collector cancelling his Jamabandi No.26 in jamabandi Cancellation Case No.177 of 2021-2022, but then, the petitioner on his behalf is pursuing the matter, on which the learned counsel appearing on behalf of the petitioner submits that since jamabandi opened in the name of Deena Nath stands cancelled, the authorities may proceed to cancel the jamabandi created in the name of the petitioner also, but then, again reiterates and submits that Sanjeev Kumar Singh i.e. husband of the petitioner whose land from the same plot was acquired by the NHAI at that point of time the State never objected his title and he received the compensation.

10. The learned counsel appearing on behalf of the petitioner further submits that the dispute in the case arose for the reason that on 01.12.1943, sale deed no.1130 with respect to a number of plot including plot no.1153 at Mauza-Madhopur was executed in favour of Sri Ganesh High School, Bakhtiyarpur. The vendor of sale deed dated 01.12.1943 included the name of Ram Kishun Sah. It is thus submitted that the sale deed no.1130 dated 01.12.1943 gives an impression as



if, Ram Kishun Sah had sold the land pertaining to Plot No.1153 in favour of Sri Ganesh High School, Bakhtiyarpur, but then, submits that on closure scrutiny of the sale deed dated 01.12.1943 annexed as Annexure-G to the counter-affidavit of the State and Annexure-8 to the supplementary affidavit filed on behalf of the petitioner, it would manifest that thumb impression of Ram Kishun Sah is not on the sale deed admitting execution of the sale deed and this fact is also apparent from the endorsement made by the Sub-Registrar, Barh in the sale deed.

11. The learned counsel next submits that as recorded herein above, the Circle Officer, Bakhtiyarpur initiated land encroachment case no.10 of 2020-2021 for removing encroachment from 3.69 decimals of land of plot no.1153 and accordingly, notice dated 02.02.2021 was issued to Deena Nath Singh i.e. purchaser from the petitioner. Thereafter, the authority also started collecting materials on the land of the petitioner for construction of boundary wall of Sri Ganesh High School. It is next submitted that petitioner and others filed Title Suit No.07 of 2022 in the Court of learned Civil Judge-1, Senior Division, Barh for declaration of their title over 28 decimals of land of plot no.1153 from Southern Side and for grant of temporary injunction.



12. At this stage, the learned Standing Counsel-25 submits that since Sanjeev Kumar Singh purchased land measuring 03 kattha 05 Dhur pertaining to Plot No.1153 was already acquired for construction of NHAI for which compensation was also given to him, as such, the said land cannot form subject matter of Title Suit No.07 of 2022 as it goes beyond the purview of Civil Court, as such, the Title Suit No.07 of 2022 filed in the Court of learned Civil Judge-1, Senior Division, Barh is misconceived as part of the suit property mentioned in Title Suit No.07 of 2022 does not exist for any adjudication in terms of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013.

13. The learned counsel appearing on behalf of the State submits that though he does not dispute the factual submissions made by the learned counsel appearing on behalf of the petitioner to the extent that Jamabandi no.586 was not in existence or is in the name of Ram Kishun Sah, but then, submits that an I.A. No.03 of 2025 has been filed in the instant case on behalf of the Circle Officer, Bakhtiyarpur wherein at Para-4, it has been specifically pleaded:-

“4. That the land in question pertains to Mauza-Madhampur, Khata no.153, Plot No.1153, Area 3.69 decimal, Circle- Bakhtiyarpur where the



construction of Ganesh High School, Bakhtiyarpur was being done. The said land has been registered in the name of Ganesh High School, Bakhtiyarpur vide sale deed no.13653, dated 21.12.1943 and sale deed no.1130 dated 01.12.1943. The Jamabandi existing in the name of Sri Deenanath Prasad over the said land and an another Jamabandi pertaining to Khata no.233, Plot no.1214, area 1.48 decimals in the name of Sri Jeevan Kumar has been cancelled by the Additional Collector, Patna as they had been created illegally. In this regard, verification of the sale deeds registered in favour of Ganesh High School, Bakhtiyarpur was done by the Joint Sub-Registrar, Patna and was found to be true. The said land had again been sold in 1963 and 2010 by the legal heirs of the previous land owners, which is not justified in the eyes of law. Thereafter, Circle Officer, Bakhtiyarpur had initiated Encroachment Case No.10 of 2020-2021 and has passed order in the said case in accordance with law. The construction of the said school is incomplete in light of the stay order passed by this Hon'ble Court in CWJC No.10030 of 2022, due to which the teaching work of the said school has been affected."

14. The the learned counsel appearing on behalf of the State thus submits that at Para-4, it has been specifically



pleaded that land measuring 3.69 decimals was recorded in the name of Sri Ganesh High School and the same was mutated in the name of Deena Nath for which land encroachment case was also initiated and thereafter, Jamabandi No.26 standing in the name of Deena Nath was cancelled by the Additional Collector, but then, Deena Nath never challenged the land encroachment proceedings nor the order by which his jamabandi was cancelled as such, the boundary wall of the school in question is being constructed only on the land of Deena Nath and one Jiwan Kumar, whose jamabandi was also cancelled by the Additional Collector with respect to 1.48 decimal of land pertaining to Khata No.233 Plot No.1214 and not on the land of the petitioner. It is also submitted that no part of the land of the petitioner shall be used in construction of the boundary wall of the school in question.

15. The learned counsel appearing on behalf of the petitioner submits that since it has been submitted by the learned counsel appearing on behalf of the State that no part of the land of the petitioner shall be used in construction of the boundary wall of the school in question as the construction of the boundary wall of the school in question is being constructed on the land of Deenanath and Jiwan Kumar, in that event, the lis



does not survive, but then, it is submitted that at Para-4 in I.A. No.03 of 2025, it has been specifically pleaded that land measuring 3.69 decimal pertaining to Plot No.1153 was registered in the name of Ganesh High School High School, Bakhtiyarpur vide sale deed no.13653 dated 21.12.1943 and sale deed no.1130 dated 01.12.1943 alleged too have been also executed by Ram Kishun Sah and jamabandi was existing in the name of Deena Nath Prasad, but then, the case of the petitioner is that from perusal of the sale deed no.1130 dated 01.12.1943, it would manifest that the sale deed did not carry the thumb impression of Ram Kishun Sah as recorded herein above, as such, the State is still trying to raise a controversy that the sale deed no.1130 dated 01.12.1943 is a genuine document executed by Ram Kishun Sah when it is not the case as the land pertaining to Plot No.1153 was purchased by Sanjeev Kumar Singh also whose land was acquired by the NHAI and compensation was paid without any objection by the State. It is also submitted that since Jamabandi no.26 created in the name of Deenanath was cancelled, who had purchased the land from the petitioner on the ground that sale deed no.1130 dated 01.12.1943 was executed by Ram Kishun Sah with respect to 3.69 decimal of land of plot no.1153, the State authorities on the



said plea can also cancel the Jamabandi no.18 in the name of the petitioner on the said ground.

16. After hearing the learned counsel for the parties, the dispute which had arisen in the instant writ application is that the petitioner was aggrieved by the fact that in garb of cancellation of jamabandi of Deena Nath, the authorities are also coming on the land of the petitioner for constructing the boundary of the school in question, but since a specific pleading and submission has been made by the learned counsel appearing on behalf of the State that no part of the land of the petitioner shall be utilized for construction of the boundary wall of the aforesaid school, as such, the lis for which the instant writ application was filed does not survive, as far as, the contention of the State with regard to sale deed no.1130 dated 01.12.1943 is being raised i.e. an issue which cannot be decided by this Court rather the said issue can be adjudicated only by a Court of competent civil jurisdiction. Since jamabandi was opened in the name of Sanjeev Kumar Singh as well as this petitioner and Sanjeev Kumar Singh also received compensation with respect to his purchased land pertaining to Plot No.1153 by the NHAI without any dispute by the State authorities, which amply demonstrates that the land purchased by Sanjeev Kumar



Singh and his wife from the heirs of Ram Kishun Sah was never disputed by the authorities of the State at any point of time and if the State for any reason intends to dispute the title of the petitioner based on the sale deed no.1130 dated 01.12.1943, in that event, the State will have to get it adjudicated by a Court of competent civil jurisdiction.

17. Thus, in view of the pleadings made at Para-4 of I.A. No.03 of 2025 and also taking into consideration the submissions made by the learned State counsel that no part of the land of the petitioner is being utilized for construction of the boundary wall of the said High School, as such, the lis for the present does not survive, accordingly, the writ application is disposed of with a direction to the State Authorities to ensure that no part of the land of the petitioner is utilized for construction of the boundary wall of Sri Ganesh High School and in the event, if the State intends to utilize the land of the petitioner for construction or extension of the school in question, in that event, the same can be done only in accordance with law. Further, if the State for any reason intends to dispute the title of the petitioner based on the sale deed no.1130 dated 01.12.1943, in that event, the State will have to get it adjudicated by a Court of competent Civil jurisdiction.



- 18. The writ application is disposed of.
- 19. All interim orders stands vacated.

(Satyavrat Verma, J)

vikash/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	10.02.2025
Transmission Date	10.02.2025

