

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12126 of 2022

1. Snehlata Singh W/o Nawal Kishor Singh, R/o Village- Brahampura, P.S.- Manigachi, District- Darbhanga, Bihar.
2. Suresh Prasad, S/o Late Janki Das, R/o Village- Tandwa, P.O. and P.S.- Godhwa, District- Garhwa, Jharkhand.
3. Indu Bhushan Kumar, S/o Yogeshwar Prasad, R/o Village- Chaurma, P.O.- Sirhari, P.S.- Islampur, District- Nalanda, Bihar.
4. Prabha Devi, W/o Yogeshwar Prasad, R/o Village- Chaurma, P.O.- Sirhari, P.S.- Islampur, District- Nalanda, Bihar.
5. Braj Mohan Sah, S/o- Late Mopal Sah, At present R/o Flat No.- 201, Sri Kailash Enclave Singh More, Vikash Nagar Road, P.S.- Hatiya, Ranchi, District- Ranchi, Jharkhand and Permanent R/o Village- Chahuta (Banswari), Post- Kamtaul, P.S.- Bishfi, District- Madhubani, Bihar.
6. Anita Devi W/o Bhupendra Kumar, R/o Village- Mubarakpur, P.S.- Shahpur, P.O.- Danapur, District- Patna, Bihar.
7. Sobha Devi, W/o Ramesh Kumar Singh, R/o Village- Tiar, P.S.- Pihuli, Siwan, District- Siwan, Bihar.
8. Bijay Kumar Verma, S/o Jagdish Prasad Verma, R/o House No. 122A, Old Patliputra Colony, P.S.- Patliputra, Patna, District- Patna, Bihar.
9. Reena Verma W/o Bijay Kumar Verma, R/o House No. 122A, Old Patliputra Colony, P.S.- Patliputra, Patna, District- Patna, Bihar.
10. Dev Muni Devi, W/o Akhilesh Tripathi, Village- Jagdishpur, P.O. and P.S.- Kochas, District- Rohtas, Bihar.
11. Sudha Gupta, W/o Shyam Babu Gupta, R/o Bhattha Road, Panchwati Nagar, P.O. and P.S.- Danapur, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate, Patna, Bihar.
4. The Additional Collector, Patna, Bihar.
5. The Circle Officer, Danapur, Patna.
6. Mukul Kumar Jha, the then Circle Officer, Danapur, Patna, at present posted as the Circle Officer, Hazipur Sadar, District- Vaishali, Bihar or through the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
7. Saryug Prasad Singh S/o Late Lal Kishun Singh, R/o Gandhi Nagar, Gabhtal, P.O.- Digha, P.S.- Danapur, District- Patna, Bihar.
8. Rajesh Kumar Singh S/o Late Ram Babu Singh, R/o Gandhi Nagar, Gabhtal, P.O.- Digha, P.S.- Danapur, District- Patna, Bihar.



9. Jyoti Bhushan Kumar, S/o Late Ram Babu Singh, R/o Gandhi Nagar, Gabhtal, P.O.- Digha, P.S.- Danapur, District- Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh
For the Respondent/s : Mr. Raj Kishore Roy (Gp18)

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 24-02-2025 1. Heard learned counsel for the petitioners, learned AC to Government Pleader-18 for the State and the learned counsel appearing on behalf of the private respondents.

2. The learned counsel for the petitioners submits that the land in dispute in the instant case pertains to Khata No. 812, Khesra No. 872, Thana No. 21, Mauza- Danapur, area 67 decimals i.e. 21.44 Kathas. It is next submitted that the land in dispute was purchased by one Lal Kishun Singh on 20.11.1929. It is submitted that one Vibhakar Sahkari Grih Nirman Samiti Limited purchased 17 katha, 10 dhur of land pertaining to Khata No. 812, Khesra No. 872, Thana No. 21, Mauza- Danapur from Lal Kishun Singh in between 10.04.1992 to 29.12.1995. It is further submitted that Lal Kishun Singh sold rest of the left over land of the aforesaid Khesra No. 872, after selling to Vibhakar Sahkari Grih Nirman Samiti Limited to Sneha Verma by registered sale deed dated 20.03.1998, area 1696 square feet, thereafter, also sold 954 square feet of the land pertaining to Khesra No. 872 in favour of Meera Singh wife of Shailendra



Kumar Singh by a registered sale deed dated 31.10.1997. It is next submitted that the left over land of plot no. 872 after selling to Sneha Verma and Meera Singh, Lal Kishun Singh sold the rest land by a registered sale deed dated on 09.03.1998 to Meera Singh wife of Kanhaiya Prasad.

3. The learned counsel for the petitioners next submits that after Vibhakar Sahkari Grih Nirman Samiti Limited purchased 17 katha, 10 dhurs of land from Lal Kishun Singh by a registered sale deed in between 10.04.1992 to 29.12.1995, thereafter the concerned society sold some portion of the aforesaid land in favour of the petitioner nos. 2, 3, 4, 5 and 8. It is further submitted that petitioner nos. 1, 6 and 7 purchased some portion of the land from the purchaser who had purchased the land from Vibhakar Sahkari Grih Nirman Samiti Limited. It is next submitted that the petitioners, after purchasing the land in dispute, got the same mutated as detailed in Paragraph Nos. 9 to 23 of the writ application. It is submitted that fresh Jamabandis were created in favour of the petitioners from Jamabandi No. 23 which was standing in the name of Lal Kishun Singh. It is further submitted that Lal Kishun Singh died on 02.02.2003 and his son i.e. respondent no.7 in the Year 2021 filed an application before the Circle Officer, Danapur for getting the Jamabandi created in favour of the petitioners cancelled and to open Jamabandis in his



name and other co-sharers. It is submitted that while Lal Kishun Singh was alive, he never objected the Jamabandis created in favour of the petitioners of the land which they had purchased from the aforesaid Vibhakar Sahkari Grih Nirman Samiti Limited nor the said Samiti ever objected, but then after considerable lapse of time, the aforesaid application seeking cancellation of Jamabandi in favour of the petitioners came to be filed by the son of Lal Kishun Singh namely Saryu Prasad Singh before the Circle Officer, Danapur, based on which the Circle Officer instituted Jamabandi Cancellation Case No. 01 of 2021-2022.

4. The learned counsel for the petitioners submits that if the son of Lal Kishun Singh was aggrieved by the fact that Jamabandis were created in favour of the petitioners with respect to the land which was recorded in the name of his father in that event, he could have moved in appeal before the DCLR for getting the mutation of the land made in favour of the petitioners cancelled, but definitely could not have filed an application before the Circle Officer seeking cancellation of Jamabandi created in favour of the petitioners for the reason that the Circle Officer does not have power to review his own order. It is submitted that since Jamabandi in favour of the petitioners was created by the Circle Officer, as such, the Circle Officer based on an application filed by the son of Lal Kishun Singh could not have instituted



Jamabandi Cancellation Case No. 01 of 2021-2022 for cancelling the Jamabandi created in favour of the petitioners as the same would have amounted to reviewing his own order which is not permitted under the mutation act, as such, the Jamabandi Cancellation Case No. 01 of 2021-22 instituted by the Circle Officer was coram non-judice for the reason that Circle Officer had no authority to cancel the Jamabandi created in favour of the petitioners. It is submitted that the Circle Officer being aware of his limitation that he cannot cancel the Jamabandis standing in the name of the petitioners, as such he illegally for ulterior reasons recommended before the A.D.M. for cancelling the Jamabandis standing in the name of the petitioners which he could not have done as private respondents had remedy of filing an appeal before the DCLR for getting the Jamabandi in the name of the petitioners cancelled.

5. The learned counsel for the petitioners next submits that the private respondents though had a remedy of filing an appeal before the DCLR against the order by which Jamabandi was created in name of the petitioners, but then the private respondent instead of resorting to that remedy approached the Circle Officer for getting the Jamabandi cancelled based on which Jamabandi Cancellation Case No. 01 of 2021-2022 was instituted. It is further submitted that the private respondents thereafter also



filed an application before the ADM in terms of Section 9 of the Mutation Act, 2011 for getting the Jamabandis created in favour of the petitioners cancelled on the ground that the land was never sold by Lal Kishun Singh in favour of the society or the petitioners, as the land was mortgaged with Punjab National Bank, as such, no sale deed could have been executed with respect to the land in dispute in the instant writ application. It is next submitted that based on the application filed by the private respondent before the ADM, Jamabandi Cancellation Case No. 223 of 2021-2022 has been instituted.

6. At this stage, the learned counsel appearing on behalf of the private respondent submits that Jamabandi Cancellation Case No. 223 of 2021-2022 has been instituted based on an application filed by the private respondent and not on the recommendation of the Circle Officer, on which the learned counsel appearing on behalf of the petitioners submits that whether at the instance of the private respondents, Jamabandi Cancellation Case No. 223 of 2021-2022 instituted before the Additional Collector is maintainable or not is an issue to be decided by the Additional Collector, as the private respondent without availing the remedy of appeal before the DCLR has directly approached the Additional Collector for getting the Jamabandi cancelled, on which the learned counsel appearing on



behalf of the private respondent submits that the petitioners are free to raise the said issue in Jamabandi Cancellation Case No. 223 of 2021-2022 pending consideration before the Additional Collector, Patna.

7. At this stage, the learned counsel appearing on behalf of the petitioners submits that petitioners would raise all the issues before the Additional Collector, Patna in Jamabandi Cancellation Case No. 223 of 2021-2022 with regard to the maintainability of the Jamabandi cancellation case, but then the petitioners would be satisfied in the event if Jamabandi Cancellation Case No. 01 of 2021-2022 instituted by the Circle Officer, is quashed as the Circle Officer does not have power to institute Jamabandi cancellation case for getting Jamabandi cancelled.

8. The learned counsel appearing on behalf of the private respondent and the State are not in a position to rebut the said submission of the learned counsel appearing on behalf of the petitioners that Circle Officer, Danapur had no jurisdiction to institute Jamabandi Cancellation Case No. 01 of 2021-2022.

9. The Court, *prima facie*, after hearing the learned counsel for the petitioners is satisfied that the Circle Officer, Danapur had no jurisdiction to entertain any application filed on behalf of the private respondents for cancelling Jamabandis



created in name of the petitioners and as such, the registration of the Jamabandi Cancellation Case No. 01 of 2021-2022 by the Circle Officer was without jurisdiction, as such, Jamabandi Cancellation Case No. 01 of 2021-2022 instituted by the Circle Officer, Danapur for getting the Jamabandis created in favour of the petitioners cancelled **is hereby quashed.**

10. However, the Court makes it clear that apart from the said fact based on which the Jamabandi cancellation Case No. 01 of 2021-2022 has been quashed, the Court has not gone into merits of the other aspects of the matter involved in the instant case, the parties are free to litigate before the authority competent.

11. The writ application is disposed of.

12. All interim orders, if any, shall stand vacated.

(Satyavrat Verma, J)

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