

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13341 of 2025

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1. Santosh Kumar Singh, Son of Pasindar Singh Resident of Village-Domakhar, P.S.-Banka, District-Banka.
 2. Kumar Gaurav, Son of Rakesh Chandra Jha, Resident of Village-Tetari, Durga Mandir, Police Station-Bhagalpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Govt. of Bihar, Patna.
2. The District Magistrate-Cum-Registrar, Registration Officer, Banka.
3. The Additional District Magistrate, Banka.
4. The Sub-Divisional Officer, Banka.
5. The Circle Officer, Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Sharma, Advocate Mr. Alok Anand, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Mandal, SC-3 Mr. Neelam Kumari, AC to SC-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 20-08-2025 1. The petitioner has challenged the validity, legality and propriety of Jamabandi Cancellation Case No. 42 of 2025-26 and prayed for issuance of writ in the nature of Certiorari to quash the notice, dated 25th of June, 2025, on the ground that the petitioners possess long standing Jamabandi in connection with the property in question and the ancient Jamabandi cannot be cancelled in a cancellation proceeding by the competent authority by initiating a Jamabandi Cancellation Case and service of notice to the petitioners.



2. The learned Advocate appearing on behalf of the petitioners, in support of his contention refers to a decision of a Co-ordinate Bench of this Court in C.W.J.C. No. 17619 of 2018, Yadu Nandan Jha & Ors. v. The State of Bihar & Ors., delivered on 21st of December, 2023. In the said decision, the Co-ordinate Bench, relied upon the judgements passed in C.W.J.C. No. 16985 of 2018, dated 13th of September, 2022 (Nathuni Singh & Ors. v. The State of Bihar & Ors.) and Ramanand Prasad Singh v. The State of Bihar, held in paragraph 27 :-

“27. If the Respondent authorities want to cancel the long standing Jamabandi, it can be done only by them by resorting to filing a Title Suit in the Civil Court and until and unless the order is passed in favour of the State in the Title Suit, the Jamabandi of the petitioner cannot be disturbed.”

3. The same view was taken in an earlier writ petition being C.W.J.C. No. 4979 of 2005 (Nawal Kishori Devi & Ors. v. The State of Bihar & Ors.) *vide* judgement, dated 18th of November, 2013. In the said judgement, this Court held as under: -

“This brings this Court to the main issue raised by the petitioners questioning the action taken by the authorities in initiating



proceeding for the cancellation of Jamabandi bearing Case No.1 of 2004-05 and impugned at Annexure-1 to the writ proceedings. There cannot be a contest on the legal position that neither under the Bihar Tenants' Holdings (Maintenance of Records) Act, 1973 nor under the Bihar Land Reforms Act, 1950, there is any provision for cancellation of Jamabandi. Although the Bihar Land Reforms Act in its section 4 does provide for cancellation of settlement but that is distinct to a cancellation of Jamabandi and the manner is prescribed for such exercise. This issue came up for consideration as back as in the year 1978 when this Court in the case of Harihar Singh reported in 1978 BBCJ 323 held that the authorities have no jurisdiction to cancel the Jamabandi and remove the names of the settlee from the tenants register. A Division Bench of this Court in the case of Khiru Gope (supra) while taking note of the two earlier judgments of this Court reported in 1978 BBCJ 323 (Harihar Singh vs. The Additional Collector) and 1979 BBCJ 605 (Jamaluddin Ahmad vs. S.D.O.) held that where the settlee claims settlement under a Hukumnama, there was no authority vested to the Collector to cancel the Jamabandi made in favour of a settlee from an ex-intermediary, the effect whereof would be to cancel the settlement by



the ex-intermediary. The Jamabandi in the present case having been created pursuant to a registered settlement, certainly the action of the Collector in directing cancellation of the Jamabandi is in the teeth of the Division Bench pronouncements of this Court. The remedy for the State authorities, if any, certainly was not by way of executive action under the statutory powers rather rested before the civil court of competent jurisdiction for a proper declaration.

For the reasons aforementioned the entire proceedings arising out of Case No.1 of 2004-05 initiated for cancellation of Jamabandi including the order of cancellation of Jamabandi dated 11.4.2005 passed by the Collector, Siwan as well as the consequential orders passed in Encroachment Case No.19 of 1995-96 against the petitioners, are rendered illegal, contrary to the statutory provisions and the judicial pronouncements of this Court and are thus set aside. For the same reasons the entire proceedings in Encroachment Case No.19 of 1995-56 in so far as the petitioners are concerned, is held illegal and set aside.”

4. In view of the settled position of law, having heard the learned counsels for the petitioners as well as the Respondents, this Court proposes to dispose of the instant writ petition, giving liberty to the petitioners to appear before the



competent authority in Jamabandi Cancellation Case with all documents and evidences to show that there is long standing settlement in favour of the petitioners in respect of the land in question and in such case, the competent authority shall proceed with the application in terms of the decision passed by this Court in C.W.J.C. No. 17619 of 2018 and C.W.J.C. No. 4979 of 2005.

5. The Respondents are also given liberty on the basis of the observation made by this Court in C.W.J.C. No. 16985 of 2018 to file a Title Suit in the Civil Court of competent jurisdiction, if they want to cancel the long standing Jamabandi and till the disposal of the said suit, the Jamabandi of the petitioners cannot be disturbed.

6. With the aforesaid direction, the instant petition stands disposed of, on contest, however, without costs.

(Bibek Chaudhuri, J)

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