

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17562 of 2022

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1. Rajendra Prasad Singh Son of Mukhdev Singh Resident of Village- Bharwar, Tole Rabhan Bigha, P.S.- Aurangabad, District- Aurangabad.
 2. Birendra Singh, Son of Mukhdev Singh Resident of Village- Bharwar, Tole Rabhan Bigha, P.S.- Aurangabad, District- Aurangabad.
 3. Satyendra Singh, Son of Mukhdev Singh Resident of Village- Bharwar, Tole Rabhan Bigha, P.S.- Aurangabad, District- Aurangabad.
 4. Upendra Prasad Singh, Son of Mukhdev Singh Resident of Village- Bharwar, Tole Rabhan Bigha, P.S.- Aurangabad, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land and Revenue Department, Bihar, Patna.
2. The Collector, Aurangabad.
3. The Addl. Collector-cum-Add. District Magistrate, Aurangabad.
4. The Land Reform Deputy Collector, Aurangabad, District- Aurangabad.
5. Anchal Adhikari, Aurangabad, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar, Advocate Mr. Mayank Bilochan, Advocate Ms. Kusum Kumari, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, (SC-19)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 27-08-2025 Petitioners have filed the instant writ petition for the following reliefs:-

“(i) For issuance of an appropriate writ in quashing the order dated 10.06.2022 by which the Anchal Adhikari, Aurangabad has recommended for cancellation of Jamabandi No.104/2005 running in the name of petitioner appertaining to land of Khata No.135, Plot No.1803, Area-0.50 acre (contained in Annexure-6).

(ii) For issuance of an appropriate writ in



quashing the notice dated 06.06.2022 issued under the signature of Anchal Adhikari, Aurangabad whereunder petitioners have been directed to remove the construction till 10.06.2022 and to produce their documents on/before the date fixed. (Contained in Annexure-5).

(iii) For issuance of an appropriate writ in quashing the notice dated 23.08.2022 issued under the signature of Additional Collector-cum-Additional District Magistrate, Aurangabad in Jamabandi Cancellation Case No.135/2022-23, whereby petitioners were directed to appear on 06.12.2022 and produce relevant documents relating to their claim. (Contained in Annexure-7).

(iv) For issuance of an appropriate writ commanding the respondents not to interfere with the right, title and possession of the petitioners.

(v) For any other relief or relief's for which petitioners are entitled under law as well as on facts."

2. The case of the petitioners is that the land in question recorded in Khata No.135 was described as Gair Mazarua Malik Land in the name of original Jamindars, namely, Janab Ray Manmanthi Nath Bose, Ananth Nath Bose. Their names were recorded in C.S. Record-of-Rights in respect of the said land. Further case of the petitioners is that the said Ananth Nath Bose was granted Parwana No.175 in favour of the mother of the petitioners, namely, Manik Raj Devi, since deceased, with



respect of Khata No.135 having several plots measuring about 3.09 acres after accepting Nazrana of Rs.75/- on 12.06.1932. The mother of the petitioners cultivated the said land and used to pay fixed rent of Rs.12/- to the Zamindars. On receipt of rent receipts, till the vesting of land by jamabandi created by the State. On 06.06.2022, a notice was issued by the jurisdictional Circle Officer in the name of Rajendra Sinha, Bijendra Sinha, Satyendra Sinha, Upendra Sinha and Jitendra Sinha, heirs of the original settlee on the basis of an Order No.1557 dated 12.05.2021 issued by the District Magistrate-cum-Collector, Aurangabad that a piece of land in Mauza-Bharwar Tole Rabhan Bigha, Thana No.868, Khata No.135, Khesra No.1803 measuring an Area-03 acre had been handed over to the Labour Development Department, Bihar, Patna for construction of Women's ITI College. It is also stated that on 15.02.2022 the above-named noticees submitted written no objection in respect of the land in question.

3. Subsequently, an order dated 06.06.2022 passed by the jurisdictional Circle Officer wherein it is recorded that an inspection was made by the employees of Land Revenue Department and they found that the said land was not in possession of any person and no evidence was forthcoming



regarding the possession of the said land. Subsequently, another order was passed on 10.06.2022, whereby and whereunder the Circle Officer recorded that in Title Appeal Nos.08/2002/09/2010, the Plot number, Khatiyan number etc. had not been clearly mentioned and therefore, it is not clear as to whether in the said appeal, the plot in question was involved or not and any decree was passed in favour of the petitioners or not.

4. Annexure-7 is a notice issued by the Additional Collector-cum-Additional District Magistrate, Aurangabad to the petitioners directing them to appear before him on 06.12.2020. However, the notice was signed by the Additional Collector, Aurangabad on 23.08.2022, meaning thereby the notice was issued for appearance of the petitioners on a date approximately about two years before the date of signing and issuance of the notice. Annexure-7 is a glaring document of non-application of mind by the State Authority.

5. The learned Advocate on behalf of the petitioners draws my attention to the judgment of Title Appeal Nos.08/2002 / 09/2010 dated 31.03.2014 passed by the learned Additional District Judge, 1st Court at Aurangabad. In the said suit, the petitioners as appellants prayed for right, title and interest over the property in question.



6. Suffice it to say that the Court of Appeal on careful consideration of evidence on record, both oral and documentary allowed the appeal by setting aside the judgment and order of dismissal of Title Suit No.115/1989 & T.S. No.15/2000.

7. The learned Advocate on behalf of the petitioners shows the decree of the original suit and appeal drawn on 16.01.2002 and 25.04.2014 on perusal of which this Court finds that right, title and interest of Khata No.135, Plot No.1803, Area-0.50 acre were declared by the Appellate Court in favour of the petitioners.

8. The learned Advocate on behalf of the petitioners next submits that a proceeding of cancellation of Jamabandi as per Section 9 of the Bihar Land Mutation Act, 2011 cannot be initiated without making inquiries in respect of any Jamabandi, which has been created in violation of law for the time being enforce or in contravention of any executive instruction issued in this behalf.

9. On the same points, he also refers to Rule-13 of the Bihar Land Mutation Rules, 2012, referring to those provisions it is submitted by the learned Advocate on behalf of the petitioners that Annexure-7 (notice) was issued by the Additional Collector-cum-Additional District Magistrate,



Aurangabad without making any enquiry as to whether the land in question was the private land or the land recorded in the name of the State Government, so that it can be transferred to the Labour Development Department.

10. The learned Advocate on behalf of the petitioners refers to two decisions in support of their contention passed in CWJC No.3336 of 2024 (Kumar Nawlesh @ Kumar Nawlesh Roy & Ors. Vs. The State of Bihar & Ors.), decided on 28.02.2024 and CWJC No.19368 of 2021 (Rina Devi Vs. The State of Bihar & Ors.), decided on 11.01.2024, in both the judgments the provision of Section 9 of the Bihar Land Mutation Act was considered in relation to the notice issued by the Additional Collector-cum-Additional District Magistrate, Aurangabad (Annexure-7). It was held by both the Courts as hereunder:-

“10. From bare perusal of impugned notice, it is apparent that no ground has been mentioned as to why jamabandi cancellation proceeding has been initiated against the petitioner. It is settled law that the existence of an alternative remedy is not a bar for this Court to entertain a writ application. If an order is absolutely beyond jurisdiction, this Court must interfere with at the stage of issuance of notice itself, else it will cause serious prejudice. In this regard, reference can be made to a Supreme Court decision, reported in (1998) 8



S.C.C. 1 (Whirlpool Corporation vs. Registrar of Trade Marks Mumbai and Others).”

11. In the instant case also, the impugned notice (Annexure-7) does not disclose any reason or ground for cancellation of Jamabandi in terms of the provision of Section 9(1) of the Bihar Land Mutation Act.

12. Thus, this Court has no hesitation to hold that the impugned notice (Annexure-7) is completely vague, cryptic and does not disclosed any ground on which proceeding for cancellation of Jamabandi has been initiated against the petitioners.

13. Last but not the least, petitioners right, title and interest over the property in question is declared by a Competent Civil Court in Title Appeal Nos.08/2002/ 09/2010. Civil Court’s order is always enforceable above the administrative decision.

14. For the reasons stated above, the instant writ petition is allowed.

15. The notices contained in Annexures-5, 6 & 7 annexed to the writ petition are quashed and set aside.

(Bibek Chaudhuri, J)

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