

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17864 of 2022

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Mozahir Hasan Dilawar, Son of Tahir Hasan Dilawar, resident of village Pipra, Police Station Daraunda, District Siwan presently residing at F- 34, Ilka Store, Noor Nagar Extn, Jamia Nagar, Okhala, South Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Siwan.
2. The District Magistrate, Siwan.
3. The Additional Collector, Siwan.
4. The Circle Officer, Daraunda, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Nath Dubey, Adv.
For the Respondent/s : Mr. Navnit Kumar, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 04-11-2025 The instant writ application has been filed under Article 226 of the Constitution of India by the petitioner seeking the following relief(s):

"1. That this application is being filed for issuance of writ/writs, order/orders, direction/directions including a writ in the nature of certiorari for quashing the order dated 15.01.2021 passed by Respondent No. 3 without examining any fact and without considering the fact that the petitioners are in possession of the land since more than 50 years and rent is also paid by he petitioner since long without examining any material and without giving proper opportunity to the petitioner passed the order cancelling Jamabandi no. 93/5."

2. Mr. Ravindra Nath Dubey, learned counsel



appearing for the petitioner and Mr. Navnit Kumar, learned counsel appearing for the State-respondents are present and they are heard.

3. It is submitted by petitioner's counsel that the petitioner has been keeping his possession over the land in question for last more than 50 years and the rent has also been paid by him since long, earlier respondent no.4 issued a notice dated 25.06.2019 in the name of father of the petitioner in which the said respondent directed the petitioner's father to remove the alleged encroachment over the land pertaining to Khata no. 45, Survey no. 533 and 534 declaring the land in question to be sariat land on the basis of the report of the Anchal Amin and thereafter the petitioner's brother filed an application dated 03.07.2019 before the respondent no.4 which was received on 06.07.2019 enclosing a copy of the judgment of the Civil Court showing that the land had been purchased by the petitioner's father from the title holder. It is further stated that the Jamabandi no. 93 of 2005 was created in the name of the father of the petitioner on the basis of a sale deed executed by one Ramnath Rai, who had been paying the rent in respect of the said land for a long time and before that a Title Suit bearing no 58 of 1960 had run between Ramnath Rai and Ors. and against the



judgment of Title Suit, Title Appeal No. 12134 of 1961 was also filed and both the cases stood decided in favour of the Ramnath Rai and the same are sufficient to show the legality of the title of the seller of the land in question as well as of petitioner which remained undisputed for last more than 35 years and all these relevant facts were not considered by the Additional Collector while canceling the long standing Jamabandi in the name of the petitioner's father. It is further stated that in the order impugned no reason has been mentioned by the Additional Collector and simply deeming the alleged Jamabandi to be suspicious it has been canceled which is neither legal nor proper. It is lastly submitted that the petitioner was not given an opportunity of hearing and even no notice was served upon him or his family members and the order impugned has been passed against several persons in mechanical manner.

4. Though, learned counsel appearing for the State-respondents has opposed this petition but fairly accepts that the order impugned is not speaking one.

5. Considering the aforesaid submissions and having gone through the averments made in this petition as well as statements made in the counter affidavit filed by the respondent nos. 1 to 4, this court is of the view that the order impugned is



not speaking one and no reason has been mentioned by the Additional Collector while canceling the alleged Jamabandi and simply deeming the said Jamabandi to be suspicious, the Additional Collector proceeded to cancel the same which is not proper and further the said order has been passed against several persons, canceling their Jamabandis which also shows the mechanical approach of Additional Collector and reflects that the order has been passed in haste manner, so, the same is liable to be set aside. Accordingly, the order impugned is hereby set aside to the extent of petitioner and the instant writ petition stands disposed of with a direction to the Additional Collector to pass a fresh order in connection with the Jamabandi relating to the petitioner after granting him sufficient opportunity of hearing in accordance with law without being prejudiced by this order.

(Shailendra Singh, J)

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