

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18062 of 2022

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Anish Kumar Prabhat, Son of Om Prakash Prasad, Resident of Village-
Sarsaiyan, P.O.- Sahgar Sultanpur, P.S.- Bhagwanpur Hat, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Sub. Divisional Officer, Maharajganj, District- Siwan.
4. Block Development Officer, Bhagwanpur Hat, District- Siwan.
5. The Circle Officer, Bhagwanpur Hat, District- Siwan.
6. Mujhiya, Gram Panchayat Raj South Sahgar Sultanpur, Block- Bhagwanpur Hat, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Majid Mahboob Khan, Adv.
For the State : Mr. Pratik Kumar Sinha, Ac to GA-5.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 01-11-2025 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 is an application for issuance of an appropriate writ, order or direction, particularly in the nature of mandamus, directing the respondents to immediately stop the construction work on the purchased land of the petitioner in the name of construction of road without initiation of the acquisition proceeding in respect to the petitioner's land pertaining to Khata No. 134, Khesra No. 1738, area- 4 katha 1 dhur situated in Mauza- Sarsaiyan, Gram Panchayat Raj, South Sahgar Sultanpur, Block: Bhagwanpur Hat, and continuously filing the soil on



the land of petitioner by JCB machine by the Mukhiya of the said Gram Panchayat.

Further any such other relief/relies may be granted to the petitioner, for which petitioner is entitled too in the facts and circumstances of the case."

2. Mr. Majid Mahboob Khan, learned counsel appearing for the petitioner and Mr. Pratik Kumar Sinha, learned counsel appearing for the State-respondents are present and they are heard.

3. The main issue raised by the petitioner in this writ petition is that the respondents have constructed a road over the petitioner's land without acquiring the same pertaining to Khata No. 134, Khesra No. 7106, area- 4 katha 1 dhur. During the course of argument, it has been revealed by the State-respondents' counsel that the construction of the alleged road over the land in question has already been completed and the same has also been accepted by the petitioner's counsel. It has been pointed out by the State-respondents' counsel that though the land in question was purchased by one Fulmati Devi, the grandmother of the petitioner but that transfer was not legal, so, a proceeding for cancellation of the Jamabandi has been initiated by way of Proposal No. 3 of 2023-24. On the other hand, petitioner's counsel submits that it is a settled position of



law that a long-standing Jamabandi cannot be cancelled by way of summary proceeding by the Revenue Authority for which a civil suit has to be filed in support of this contention, reliance has been placed on the judgments of this court passed in the case of *Md. Khalid Alam Bhutoo Vs. the State of Bihar and Ors.* in *CWJC No. 10285 of 2020*, in the case of *Rekha Devi Sultania Vs. State of Bihar and Ors.* in *CWJC No. 7869 of 2022* in the case of *State of Bihar through the Collector, Siwan & Ors. Vs. Harendra Nath Tiwari passed in L.P.A. No. 1696 of 2014* reported in *(2015) 1 PLJR 606*.

4. As the construction of the alleged road over the land in question has already been completed and so far as the proceeding with regard to the cancellation of the Jamabandi which is said to be standing in the name of the petitioner for a long period is concerned both the parties are not sure whether the same is running or has been decided and so far as the legality of the construction of the road over the land in question is concerned the same requires detail evidences from both the sides. Accordingly, this court is not persuaded to invoke writ jurisdiction of this court to settle the issue raised by the petitioner, so, the instant writ petition stands dismissed.

5. However, the petitioner is given a liberty to pursue



the proceeding relating to Jamabandi cancellation as stated above, if the same is still pending and further, he will have liberty to file a civil suit for declaring his title in the land in question and for compensation in respect of construction of alleged road over the so claimed land of the petitioner.

(Shailendra Singh, J)

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