

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19619 of 2024

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Mandal Baski Son of late Badro Baski @ Badro Baski resident of Ward No.15, Singhia Sultanpur, Chakla, P.O.- Chaklaghat, district- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Kishanganj.
2. The Collector Cum District Magistrate (D.M.), Kishanganj
3. The Additional Collector, Kishanganj.
4. The Sub-divisional Officer, Kishanganj
5. The Deputy Collector Land Reforms (DCLR), Kishanganj.
6. The Anchal Adhikari (C.O.), Kishanganj Anchal, district- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satish Kumar Sinha, Advocate
For the State : Mr. Jai Prabhat Kishore, A.C. to S.C-13

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 09-01-2025

In the instant petition, petitioner has prayed for

the following relief(s):-

1. That this is an application for issuance of an appropriate writ/ writ(s) or order/order(s) and/ or direction for the following relief/reliefs.

A. To set aside the order dated 08.12.2020 passed by the Collector, Kishanganj in Bandobasti Parcha Cancellation Case No. 55/2018-19 whereby and whereunder the Parcha issued under the Land Settlement Case No. 91/1966-67 in the name of Badri Baski (the father of the petitioner) has been cancelled illegally without any notice and against dead person (Badri Baski).



B. That the petitioner's possession over the land in question (5 Acres 12 decimals, the settled land) be not disturbed till disposal of the present application.

C. To pass such other order/orders or direction as may deem fit and proper to secure the ends of justice.

2. Learned counsel for the petitioner submits that land in question mentioned in para 4 which is Plot No. 1515 under Khata No. 94, Area-5.64 acres situated within Mauza-Khagda under Thana No. 57, ward No. 6 was settled in the name of father of the petitioner in the year 1966-67. It has been submitted that father of the petitioner died on 15.12.1996 as is evident from the Death Certificate annexed as Annexure-P/2 and in the Bandobasti Parcha Cancellation Case No. 55/2018-19 filed by State against the petitioner's father and other, notice has been issued to father of the petitioner who has already died. In this way, Notice is merely a formality as father of the petitioner has died earlier and petitioner has not been heard. Thereby, petitioner has been deprived of his right of hearing. In this way, the order dated 08.12.2020 passed by the Collector, Kishanganj in Bandobasti Parcha Cancellation Case No. 55/2018-19 is liable to be set aside.

3. Learned counsel on behalf of the State submits that petitioner is not a party as his father is party and other person to



whom he has sold the land in question. He has also admitted that though notice has been served but notice has not been given to the petitioner because he is not a party to the said proceeding.

4. The moot question which has been raised by counsel of the petitioner is that petitioner has not been heard. It is clarified from the title of the proceeding that petitioner is not a party and his father has already died and right of hearing must not be an empty formality. If any order has been passed against any person by the which the person is aggrieved, he must be heard.

5. Hon'ble Supreme Court in the case of ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others*** reported in ***(1998) 8 SCC 1*** in para 15, held as under:-

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where petition has been filed for the enforcement of any of the Fundamental Rights or where there has been violation of the principle of natural justice or where the



order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

6. The Hon'ble Supreme Court in catena of judgments has held that principle of natural justice is equally applicable in quasi-judicial function as well as administrative function to arrive at just decision and it is difficult to see as to why it should be applicable only to quasi-judicial inquiry not to administrative inquiry and it has been settled law that it must logically apply to both. The Hon'ble Supreme Court in the case of ***D.K. Yadav vs. J.M.A. Industries Ltd.*** reported in (1993) 3 SCC 259 observed at para-12 which reads as under:-

"12. Therefore, fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the rights of the person affected would be in conformity with the principles of natural justice."

7. The said principle has been recently reiterated by the Hon'ble Supreme Court in the case of ***State Bank of India and Others vs. Rajesh Agarwal and Others*** reported in 2023 SCC OnLine SC 342 in which it has been observed as follows:-

"The Principles of natural justice are not mere legal formalities. They constitute substantive obligations that



need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial, and administrative authorities.”

8. In the present case, when action of respondent authority is decided upon the touchstone of principles of natural justice as observed by the Hon'ble Supreme Court in the aforementioned cases (cited supra), it is crystal clear that action of respondent authority is arbitrary as proper opportunity has not been given to the petitioner. When the concerned authority passed the order without providing the opportunity to the aggrieved person, on that score the order passed by the concerned authority is against the spirit of law, violating the principles of natural justice as observed by the Hon'ble Supreme Court in catena of judgments.

9. In the light of the discussions made above, the order dated 08.12.2020 passed by the Collector, Kishanganj in Bandobasti Parcha Cancellation Case No. 55/2018-19 is not sustainable in the eye of law and the same is hereby set-aside. The matter is remanded back to the concerned authority for hearing the matter afresh after serving the notice to the parties



and pass fresh order within a period of four weeks from the date of receipt/production of copy of this order in accordance with law, after giving due opportunity of hearing to the parties concerned.

10. Accordingly, the writ petition stands disposed of.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.01.2025
Transmission Date	NA

