

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1397 of 2026

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1. Kishore Mahto Son of Late Biranchi Nuniya @ Biranchi Mahto,, Resident of Village Kudhaili, P.S. Dighal Bank, District Kishanganj.
 2. Krishna Mahto @ Vershan Mahto, Son of Late Biranchi Nuniya, Resident of Village Kudhaili, P.S. Dighal Bank, District Kishanganj.
 3. Vijay Mahto, Son of Late Biranchi Nuniya, Resident of Village Kudhaili, P.S. Dighal Bank, District Kishanganj.
 4. Bharat Mahto, Son of Late Biranchi Nuniya, Resident of Village Kudhaili, P.S. Dighal Bank, District Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue/Land Reforms, Bihar, Patna.
2. The District Magistrate, Kishanganj.
3. The Additional Collector, Kishanganj.
4. The Deputy Collector of Land Reforms, Kishanganj.
5. The Superintendent of Police, Kishanganj.
6. The S.H.O., Kodhobari Police Station, Kishanganj.
7. The Circle Officer, Dighal Bank, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Advocate. Mr. Nihal Beg, Advocate. Mr. Shive Kumar, Advocate.
For the Respondent/s	:	Mr. Tripurari Nath Ambastha, AC to SC-26.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 31-01-2026 Heard learned counsel appearing on behalf of the
petitioners and learned counsel for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“(i) For issuance of an appropriate writ, order or direction for quashing the order dated 25.09.2025 in



Cancellation Case No. 28/2025-26 by the respondent Additional Collector, Kishanganj against one Biranchi Nuniya (A Dead Person) initiating a Jamabandi cancellation proceeding without impleading his legal heirs in the Jamabandi Cancellation Case and also for quashing the entire consequential proceeding of the aforesaid case.

(ii) For issuance of an appropriate writ, order or direction for grant of ad-interim stay of the entire proceeding of Jamabandi Cancellation Case No. 28 of 2025-26 pending before the respondent Additional Collector, during pendency of this writ petition.

(iii) For issuance of an appropriate writ, order or direction restraining the respondent authorities from interfering in the peaceful possession and occupation of the petitioners and others legal heirs of settlee by initiating a quite vexatious cancellation proceeding in garb of a regular title suit through a summary proceeding.

(iv) For issuance of an appropriate writ, order or direction restraining the respondent authorities from demolishing the petitioners' house and the house of other legal representatives of the deceased settlee in the name of operation Dakhal Dehani during the pendency of this writ petition.

(v) For issuance of an appropriate writ, order or direction for grant of any other relief or relief which may deem fit and proper in the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioners submitted that the father of the petitioners was allotted a piece of land over which they have constructed a *Pakka* house and now the Additional Collector on the basis of the report of the Circle Officer, Dighalbank, Kishanganj has initiated a Jamabandi cancellation proceeding being Case No. 28/2025-2026 after death of the father of the petitioners in respect of the land settled in the name of the father of the petitioners who was a landless person. Learned counsel further submitted that in due course of time, the petitioners' right has crystallized and their right over the property over which they have a residential house. Learned counsel submitted that if the



Jamabandi is cancelled, the petitioners who are residing in the house, they will be forced to vacate it and to protect their right, interference of this Court is required. Learned counsel has also relied upon the judgment passed by this Court in *C.W.J.C. No. 16494 of 2018 (Ramowtar Lakhoria Vs. The State of Bihar & Ors.)*.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that the judgment dated 10.04.2024 passed in C.W.J.C. No. 16494 of 2018 is not of any benefit to the petitioners as the said case is related to Jamabandi over which the petitioner / appellant of the said case had claimed their right and title on the basis of the Khatiyani Raiyat. The Division Bench had struck down the impugned Section 9(1) of the Bihar Land Mutation Act, 2011 to the extent it confers power upon the Additional Collector “*to dispossess the person whose Jamabandi has been cancelled and to put in possession the legitimate owner/custodian of such land on such terms as may appear to be fair and equitable*”. Learned counsel further submitted that corresponding Rules 13(11) and 13(12) of the Bihar Land Mutation Rules, 2012 has also been held *ultra vires* Article 300A of the Constitution of India, apart from that being beyond the scope & ambit of Entry 45 of List II of Schedule VII. Learned counsel having distinguished the case of the petitioners in light of the judgment dated 10.04.2024 submitted



that the petitioners have remedy before the Collector for claiming their right and relief as sought for.

5. Heard the parties.

6. Having heard the rival submissions, the petitioners have based their argument on the Division Bench judgment of this Court in the case of *Ramowtar Lakhota (supra)*. The provision of Section 9(1) of the Bihar Land Mutation Act, 2011 has been held to be *ultra vires*. Section 26 of the Act defines Jamabandi. This clarified that the procedure for cancellation of jamabandi can only be adopted in such cases where a person is aggrieved in respect of any land over which he has a title. In the present case, it cannot be said that the Circle Officer has committed error in referring the case in respect of the land over which the petitioner has constructed a house for cancellation of Jamabandi.

7. The petitioners have claimed and admitted that the said land was allotted to their father under a welfare scheme providing land to the landless person and at the time of allotment, their father was a landless person. There is no information in respect of the fact that subsequent to the death of the petitioners' father, they are still landless so that they can continue to be in possession over the land allotted as per welfare scheme.

8. Section 27(3) of the Bihar Land Reforms (Fixation



of Ceiling Area and Acquisition of Surplus Land) Act, 1961 provides that *“the land settled by the Collector under sub-section (1) shall be heritable but shall not be transferable”*.

9. I find that it is pre-mature for this Court to enter into the question, as to whether, the petitioners have crystallized their possessory right in view of the admitted position that the father of the petitioners was landless and under the welfare scheme, he was allotted a piece of land over which a dwelling house is existing. The District Magistrate cum Collector is required to verify, as to whether, the petitioners who are the son of late Biranchi Nuniya have any land and he is a landless person and also verify whether the scheme provides for any hereditary right to the heirs of the landless person in whose name the land was allotted for dwelling purpose.

10. The writ application, accordingly, stands disposed of.

(Purnendu Singh, J)

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