

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3731 of 2022

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Pawan Singh @ Paban Singh S/o Late Mishri Singh Resident of Village-
Rajauna Chauki, P.O.-Balguddar, P.S.-and District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secreary Revanue and Land Reforms,
New Secretariat, Patna.
2. The District Magistrate, Lakhisarai, District-Lakhisarai
3. The, Additional Collector, Lakhisarai
4. The, L.R.D.C. Lakhisarai, District-Lakhisarai
5. The, Circle Officer, Lakhisarai, District-Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate Mr. Shashank Kashyap, Advocate Ms. Sheshadri Kumari, Advocate Ms. Ishiqua Raj, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-02-2026

Heard Mr. Ranjan Kumar Dubey, learned counsel

appearing on behalf of the petitioner and Mr. Sajid Salim Khan,

learned senior counsel for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, *inter alia*, following relief(s), which is

reproduced hereinafter:-

*"(i) For issuance of writ in the nature of
command directing the respondent to hold that entire
process of initiating of Jamabandi Cancellation Case No.
21 of 2019 and further proceeding is band in law and is
abuse of process of law.*

*(ii) For issuance of writ in the nature of
Command directing the respondent particularly Collector,
Lakhisarai to heard and disposed of the Jamabandi*



Cancellation Appeal No. 17/2021 within time fixed and also to disposed of stay petition filed in said appeal forthwith.

(iii) For issuance of writ in the nature of command directing the respondents authorities to not disturb the petitioner during pendency of the writ petitioner and also direct them to maintain status quo till final disposal of this writ petition.

(iv) For any other writ/writs, order/orders for which petitioner deemed entitled to."

3. The brief facts of the case is that the dispute concerns land situated at Mauza Chauki, Tauzi No. 3688, Thana No. 141, Khata No. 111, Survey Plot No. 598, measuring 1.225 acres, Anchal Lakhisarai, District Lakhisarai, for which Jamabandi No. 77 stood in the name of the petitioner's ancestor. The petitioner asserts that the land was orally settled in 1943 by the then ex-landlord in favour of his grandfather, Bishwanath Singh, followed by issuance of a Hukumnama and recognition of his raiyati rights at the time of vesting, whereafter Jamabandi was created, his name recorded in Register-II, and rent paid to the State continuously. Upon his death, the property devolved upon his sons, and ultimately upon the present petitioner, who claims to remain in cultivating possession and to have paid rent up to 2020–21. The controversy arose when, in 2019, a Jamabandi Cancellation Case No. 21/2019 was initiated on the recommendation of the Circle Officer, culminating in an order dated 29.02.2020 passed by the Additional Collector, Lakhisarai, cancelling the long-standing Jamabandi in a



summary proceeding, which the petitioner contends is contrary to settled law. The petitioner preferred Jamabandi Cancellation Appeal No. 17/2021 before the Collector, Lakhisarai, which remains pending along with an application for stay, while alleging that during pendency of the appeal the authorities have been interfering with the land and damaging his crops. Aggrieved by the cancellation order and the alleged coercive action of the authorities despite pendency of the statutory appeal, the petitioner has approached this Court.

4. The District Magistrate in support of his order dated 26.08.2022, has made statement in paragraph no. 7 of the counter affidavit duly sworn by him as follows:

"7. That thereafter the petitioner has preferred a Jamabandi Cancellation Appeal before answering respondent no. 2 vide Jamabandi Cancellation Appeal No. 17/2021. The appeal was also heard at length. During the course of argument it was admitted by the petitioner that in south eastern side of the said Khesra in question there is a pit which makes it explicitly clear that actual nature of the said land was pond. The Register II does not disclose as to how the Jamabandi in question was created. Accordingly the respondent no. 2 after giving cautious, serious and judicious consideration to the facts and evidences pertaining to the matter in question was pleased to dismiss the said appeal no. 17/2021 vide his speaking order dated 26.08.2022 issued vide memo no. 1095/Vidhi, dated 26.08.2022"

5. This Court has directed the learned counsel appearing on behalf of the State to peruse the *Khatiyani* and remark mentioned therein in respect of the land appertaining to



Mauza Chauki, Tauzi No. 3688, Thana No. 141, Khata No. 111, Survey Plot No. 598 measuring total area 1.225 Acres, Anchal Lakhisarai, District- Lakhisarai.

6. Learned counsel appearing on behalf of the State very fairly informs this Court that as per the entries made in the *Khatiyani*, the aforesaid land is '*Gair Majarua Aam*' and if subsequent to the entries, which were made at the time of preparation of the *Khatiyani* in respect of the government land, the petitioner, who claims that he was/is in possession of the said land, merely by changing the nature of the land by digging a pond, will not allow him to be granted possessory right over the land in absence of any documentary evidence in this regard.

7. This Court appreciates the information and the prudent manner in which Mr. Khan, learned senior counsel has placed the documents, which have been produced to him by the Circle Officer. I find that the District Magistrate-cum-Collector has not acted within his jurisdiction, rather, without any evidence, has given an incorrect information in paragraph no. 7 of the counter affidavit, which the petitioner has denied that he has not changed the nature of land being '*Gair Majarua Aam*' but, he has claimed that he has possessory right over the land



being in possession since the year 01.02.1945.

8. In absence of any document having been brought by the petitioner in support of his possessionary right since 1945, this Court is constrained to pass any order, however, the action of the District Magistrate-cum-Collector is required to be deprecated, who has not given due consideration to the Khatiyan and has proceeded to pass order that the land in question is public land being used for the public purpose as it has been recorded in the Register-II.

9. In light of the statement made in paragraph no. 7 of the counter affidavit and the finding based on the remarks contained in Register-II in respect of the land in question, I find that the order dated 26.08.2022 passed by the District Magistrate-cum-Collector in exercise of his appellate jurisdiction, is fit to be quashed and set aside.

10. The matter is remanded back to the District Magistrate-cum-Collector for reconsideration after giving due opportunity of hearing to the petitioner.

11. However, it is left open to the parties to challenge the question of settlement as has been claimed by the petitioner that it has been done by the ex *Jamindar* and in that respect, the District Magistrate-cum-Collector has given his finding that the



land is '*Gair Majarua Aam*' land and the ex Jamindar had no jurisdiction or power to settle the said land in favour of the petitioner, who has brought on record *Hukumnama* requiring its consideration only by a competent Civil Court.

12. Accordingly, the present writ petition stands disposed of.

13. Interlocutory Application(s), if any, shall also stand disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	06.02.2026
Transmission Date	N/A

