

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7646 of 2025

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Amar Nath Tiwary Son of Late Jitendra Nath Tiwary, resident of village Dighwara, Ward No. 19, Dighwara, District-Saran (Bihar) PIN-841207.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The District Magistrate, Saran.
3. The Circle Officer, Dariyapur, Saran.
4. The Secretary, Building Construction Department, Building Division, Chapra.
5. The Chief Engineer, Building Construction Department, Building Division, Chapra.
6. The Executive Engineer, Building Construction Department, Building Division, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kunal Tiwary, Advocate
For the Respondent/s : Mr. Standing Counsel (1)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 17-03-2026 Heard Mr. Kunal Tiwary, learned counsel for the petitioner and the State.

2. The present petition has been preferred for the following relief(s):

i. for issuance of writ in the nature of Mandamus for restraining the respondent authorities from constructing Panchayat Bhawan over the ancestral land of the petitioner at Village-Bhairopur, Sajjanpur Matihan, Dariyapur, Saran on the plot having Khata No. 297, Khersa No. 34, admeasuring an area of 2 acre 42 decimal.



ii. for challenging the notice dated 03.06.2025 whereby and where under a notice has been issued to the petitioner in Jamabandi Cancellation Case No. 478/2025-26 from the Court of Deputy Collector, Saran at Chapra informing the petitioner that a Mutation Cancellation case has been initiated on his land and the petitioner was directed to appear on 18.06.2025 at 03:00 P.M.

iii. for stay of the proceeding of Mutation Cancellation Case No. 478/2025-26.

iv. for any other relief/reliefs for which the petitioner is entitle to.”

3. The details of the land is/are as under:

“Plot 297, Khesra 34 (area 2 acres 42 decimal) in the village Bhairapur, Sajjanpur Matihan under Circle – Dariyapur, District – Saran.”

4. The claim of the petitioner is that for last several decades, ‘the Jamabandi’ stands created in favour of their family inasmuch as earlier, it was in the name of Late Dwarka Nath Tiwary and now with Gajendra Nath Tiwary. However, this Court has noticed that the only supportive document that is on record is the mutation receipt dated **17.10.2024**.



5. The contention is that on **12.09.2024**, the Building Construction Department, Building Division, Chapra came out with an advertisement for construction of Panchayat Bhawan in the district of Saran and one of the proposed site was Sajjanpur Matihan Panchayat. When the petitioner inquired about the proposed place, was surprised to know that it is the same land which belongs to his family. This followed the representations to the Executive Engineer, Building Construction Division, Chapra on **15.10.2024** and representation to the Circle Officer, Dariyapur, Saran. As there was no response, the present writ petition.

6. It is to be noted that during the pendency of the petition, the Circle Officer, Dariyapur made recommendation for the cancellation of the jamabandi which resulted into registration of **Jamabandi Cancellation Case No. 478/2025-26 (State through the Circle Officer, Dariyapur vs. Amar Nath Tiwary)**.

7. This was challenged by the petitioner by way of **Interlocutory Application no. 01 of 2025** and the same was allowed by the Coordinate Bench on **05.01.2026**. Further, while directing the State to file affidavit, the Court directed the respondents not to move further for the construction of the Panchayat Bhawan.



8. The affidavit of the State has come.

9. Learned counsel for the petitioner submits that the rent receipt shows that the family was having Jamabandi for long and in that background, construction of the Panchayat Bhawan on the land is not in accordance with law. Further, when representation was preferred before the Circle Officer, Dariyapur; instead of deciding the same, he made a recommendation for the cancellation as recorded above.

10. The submission is that in the notice issued by the Additional Collector dated 03.06.2025, the reason has not been assigned which is essential. In support of the said contention, learned counsel has taken this Court to the **Section 9 of the Bihar Land Mutation Act, 2011** (henceforth for short ‘**the Act**’) which relates to the cancellation of the Jamabandi and read as under.

9. Cancellation of Jamabandi.-(1) The Additional Collector, either suo motu or on an application, shall have the power to make inquiries in respect of any Jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. The Additional Collector, in whose jurisdiction the land is situated,



may, after giving reasonable opportunity to the parties concerned to appear, adduce evidence and be heard, cancel such Jamabandi, dispossess the person claiming under it and deliver the possession to the legitimate owner/custodian, on such terms as may appear to the Additional Collector to be fair and equitable.

(2) The jamabandi shall not be cancelled under sub-section (1) without giving reasonable opportunity to the parties, having interest in that jamabandi, of being heard.

(3) Any person, having interest in a land or a part thereof, of any jamabandi may file a petition in the prescribed manner for the cancellation of the jamabandi before the Additional Collector in whose jurisdiction the land or a part thereof is situated.

(4) The Additional Collector, in whose jurisdiction the land or a part thereof of the jamabandi is situated, on a petition filed for the cancellation of the jamabandi or on reference from a Government Department which has an interest in the land or a part thereof or suo motu, may initiate



proceedings for cancellation of the jamabandi by issuing notice to persons having interest in the jamabandi.

(5) The Additional Collector in whose jurisdiction the land or a part thereof in the jamabandi is situated, after enquiry either by himself or by an officer authorized by him in this behalf, shall pass such order as he deems fit.

(6) (a) An Appeal against the order of the Additional Collector shall lie with the Collector of the district within thirty (30) days of the order appealed against.

(b) The Collector of the district may condone the delay in filing appeals provided he is satisfied that there are sufficient reasons for the delay.

(c) The Collector of the district shall not pass any order modifying, altering or setting aside the order appealed against unless the concerned parties have been given a reasonable opportunity of being heard.

(7) (a) An application for revision may be filed before the Commissioner of the Division by



any person aggrieved by an order of the Collector of the district within 30 days from the date of such order.

(b) The Divisional Commissioner may condone the delay in filing of application for revision provided he is satisfied that there are sufficient reasons for the delay.

(c) The Divisional Commissioner may on an application made to him on this behalf or for the purposes of satisfying himself as to the legality or propriety of any order made under this Act or the rules made thereunder by an officer or authority, call for and examine the records of any case pending before or disposed of by such officer or authority and pass such order as he deems fit.

(d) The Divisional Commissioner shall not pass any order modifying, altering or setting aside an order of any authority or officer unless the concerned parties have been given reasonable opportunity of being heard.”

11. He has further taken this Court to an order of learned Single Judge of Patna High Court in the case of **Ram Naresh Roy & Ors. vs. The State of Bihar & Ors. (CJWC**



No. 16269 of 2024 wherein following the Section 9 of ‘the Act’, the Court having recorded that the reason is not mentioned in the notice issued by the State-respondents allowing them to proceed afresh, the said notice was quashed.

12. The relevant part of the order dated 24.10.2024 in the case of **Ram Naresh Roy** (supra) in **paragraphs 5 to 9** read as under:

“5. Learned Senior Counsel thereafter draws the attention of the Court to Annexure-24 to the writ application i.e. the Memo No. 698 dated 29.08.2024 whereby notice has been issued to the petitioners for appearing before him as proceeding for cancellation of Jamabandi has been initiated. Learned Senior Counsel, thus, submits that from perusal of the memo dated 29.08.2024, it would manifest that the same merely records that petitioners are informed that Circle Officer, Bahadurpur vide his letter no. 2433 dated 26.12.2023 has recommended for cancelling the Jamabandi of the land pertaining to Mauza Balbhadrapur; Thana No. 534, Khata No. 491, Khesra No. 2521. It is further submitted that the notice does not even remotely disclose the grounds



on which the notice has been issued for cancellation of Jamabandi of the petitioners. It is next submitted that the law mandates that the Jamabandi can be cancelled only if it has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf but then the notice is completely silent on that issue, as such, submits that the notice is vague.

6. Learned counsel appearing on behalf of the State is not in a position to rebut the submissions of the learned Senior Counsel appearing on behalf of the petitioners that the notice does not disclose the reason based on which the same has been issued initiating a proceeding for cancellation of Jamabandi of the petitioners.

7. After hearing the learned counsel for the parties, the Court, prima facie, is of the view that notice has been issued without recording the reason based on which Jamabandi cancellation case has been instituted as the notice does not record that as to which law or executive instruction were violated when initially the Jamabandi was



created, as such, the notice appears to be vague. Accordingly, the notice contained in Memo No. 698 dated 29.08.2024 issued by the ADM, Darbhanga asking the petitioners to appear before him in respect of Jamabandi Cancellation Case No. 173 of 2023-24 is hereby quashed.

8. The writ application is allowed.

9. However, the authorities would be at liberty to proceed against the petitioners in accordance with law.”

13. The State-respondents have filed affidavit through the BDO, Dariyapur-cum-Incharge-cum-C.O, Dariyapur, Saran and the claim is that as per the report of the Halka Karamchari, it is recorded in R.S. Khatiyani as **‘Gair Majarua Malikan Jarpesgidaar’** and its nature as **‘Parti Kadim’**. Though the counter-affidavit accepts that on plot no. 34, the jamabandi no. 88 is running in the name of the petitioner. The contention is that when the Additional Collector, Saran has already put him on notice, he should have very well presented himself alongwith all the relevant documents to satisfy the said Court instead of the writ petition.

14. This Court has taken note of the facts of the case, the pleadings of the parties as also the order passed by



Coordinate Bench in the case of Ram Naresh Roy (supra) which has dealt with **Section 9 of ‘the Act’**.

15. As recorded above, though the petitioner claims that the jamabandi is running for decades, the only document on record is a receipt of 17.10.2024 which has been issued in favour of the petitioner (Annexure-P/N). However, it is the contention of the petitioner that in a haste, the writ petition was filed and if given a chance, he shall be producing all the documents before the Revenue Authorities in support of the claim.

16. A land has been earmarked for construction of Panchayat Bhawan. Admittedly, the counter-affidavit says that presently, jamabandi is running in the name of the petitioner. Process for cancellation of ‘jamabandi’ of the said land was taken but the reason has not been assigned as mandated in Section 9 of ‘the Act’. Further, this Court has to follow the order passed by the Coordinate Bench in the case of **Ram Naresh Roy** (supra).

17. In that background, without commenting on the merit of the case and allowing both the parties to put forward their respective views if fresh notice alongwith reason is assigned by the Additional Collector, Saran at Chapra, the notice issued in the Jamabandi Cancellation Case No. 478/2025-26 is quashed.



18. It is recorded, once again, that the authorities shall be at liberty to proceed afresh in accordance with law and strictly in line with Section 9 of ‘the Act’ against the petitioner.

19. The writ petition stands disposed with the aforesaid observation.

(Rajiv Roy, J)

Adnan/-

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