

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12869 of 2021

Ashraf @ Md. Ashraf Darji son of Late Md. Aabid Resident of village - Harlakhi, P.S. Harlakhi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Collector, Madhubani.
3. The Senior Superintendent of Police, Madhubani.
4. The Sub Division officer, benipatti, Madhubani.
5. The Sub Division police officer, Benipatti, Madhubani.
6. The Land Reforms Deputy Collector, Benipatti, Madhubani.
7. The Circle officer, Harlakhi, Madhubani.
8. The Station House officer, Harlakhi, Madhubani.
9. Md. Sadre Darji son of Late Kasim Darji resident of village - Harlakhi, P.S. Harlakhi, District- Madhubani.
10. Md. Anwar Darji son of Late Kasim Darji resident of village - Harlakhi, P.S. - Harlakhi, District- Madhubani.
11. Shashi Bhusan Prasad, Then circle officer Harlakhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jagannath Singh, Advocate.
For the Respondent/s : Mr. Vivekanand Nand Singh, AC to GP-18.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 07-01-2026 Heard learned counsel appearing on behalf of the petitioner and learned 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:-

“That this is an application for issuance of a writ in the nature of Certiorari or any other appropriate writ/rule for quashing the order dated 12.02.2020 passed in land dispute Miscellaneous Appeal Case No. 01/2019 passed by the learned Land Reforms Deputy Collector, Benipatti, Madhubani (Respondent No. 6) as also the order dated 15.10.2019 passed in Misc. Case No. 02/2019-20 passed by Circle Officer, Harlakhi (Respondent No. 7) who by complicating the case directing both the parties i.e. Petitioner and Private Respondent No. 9 & 10 to place



their case before the court of learned Sub Judge, Benipatti by misplacing the case and corroborating the wrong facts of genealogical table which would be apparent from Khatiyan of Khata No. 410 and other documents showing compliance of order dated 23.07.2019 passed in CWJC No. 1368/2018 (Annexure-7) passed by this Hon'ble Court and thereby directing the respondent specially respondent No. 7, the Circle Officer, Harlakhi, Madhubani to demarcate the land of the petitioner in presence of the law enforcing agency by fencing the same with the boundary wall bearing Khata No. 50, Plot No. 572, Area 7 Kattha 05 Dhur on 14.06.1917 (Annexure-2) standing in the name of the father of the petitioner Late Md. Aabid which was transferred by a deed of gift (Ataynama) in favour of his grandfather Rahman Darji

And/Or

Any other relief/reliefs, writ/writs, direction/directions as may deem fit in the facts and circumstances of the present case.

3. The brief facts of the case are that the petitioner claims himself to be the Khatiyani Raiyat of the homestead land bearing Khata No. 50, Plot No. 572, admeasuring 07 Kaththa 05 Dhur, situated at Village–Harlakhi Tole Birta, P.S. Harlakhi, District–Madhubani, which stands duly recorded in the Survey Khatiyan in the name of his father Late Md. Aabid, and the said property is ancestral in character, the petitioner and his predecessors-in-interest having been in continuous, peaceful and uninterrupted possession thereof since the time of his grandfather Rahman Darji, who derived title by virtue of a registered deed of gift dated 14.06.1917; it is the specific case of the petitioner that Respondent Nos. 9 and 10, without any semblance of right, title or interest, have illegally interfered and attempted to dispossess the petitioner by raising pucca construction over the said land by use of force, muscle power



and money power, thereby creating a serious threat to the petitioner's life and property. Thereafter, the petitioner approached the Station House Officer, Harlakhi on 15.12.2017 and subsequently the Superintendent of Police, Madhubani and the Collector, Madhubani, seeking protection and preventive action in accordance with law. In spite of such representations, no effective or meaningful action was taken by the respondent authorities, compelling the petitioner to invoke the extraordinary jurisdiction of this Court for redressal of his grievance.

4. The parties, at the outset, have informed this Court that the genealogy contained in Annexure-9/1 on the basis of which the petitioner has claimed his right is a manipulated one prepared by the Circle Officer for his own benefit, causing much inconvenience to both the petitioner and the respondent nos.9 and 10 leading to filing of the present writ petition.

5. I have perused the genealogy, the party position and the cause title of the present writ petition, I find that nowhere Branch of late Md. Aabid has been referred in the genealogy so prepared by the Circle Officer on 10.10.2019.

6. The impugned order dated 15.10.2019 passed in Misc. Case No. 02/2019-20 (Annexure-8) by the Circle Officer, Harlakhi and order dated 12.02.2020 passed in Land Dispute Miscellaneous Appeal Case No. 01/2019 by the Deputy



Collector Land Reforms, Benipatti, Madhubani (Annexure-10) without taking into consideration the branches of late Md. Aabid are set aside and quashed.

7. Petitioner is represented by Mr. Jagannath Singh, learned counsel and Mr. Ramesh Kumar Chaudhary, represents respondent nos. 9 and 10.

8. Respective counsels are directed to advise their client, the petitioner of this case and the genuine owner of the disputed land to approach the Circle Officer.

9. Action of the Circle Officer appears to be vested with *malafide*, not based on the correct genealogy without having verified from the Sarpanch of the Gram Panchayat or the Mukhiya and has arbitrarily exercised his jurisdiction to pass the order dated 10.10.2019.

10. This Court, upon considering the conduct and approach of the Circle Officer concerned, finds that he has failed to examine the matter in its proper perspective and has not even adverted to the relevant aspects of the case, for reasons best known to him, thereby reflecting a clear lack of due application of mind; accordingly, this Court directs the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, to replace the said Circle Officer with another competent Circle Officer, who shall



adjudicate the matter afresh and pass a reasoned and speaking order strictly in accordance with law, after affording due and adequate opportunity of hearing to all the concerned parties.

11. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

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