IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8318 of 2025

CNR No. BRHC010475002025

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Pintu Kumar @ Pintu Yadav son of - Late Krishna Yadav, resident of village Mohanpur Parev, P.S Bihta, District - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Chief Secretory, old Secretariate, Bailey Road, Patna.
2. The Principal Secretory cum Commissioner, Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
3. The District Magistrate cum collector, Patna.
4. The Additional District Magistrate cum Additional Collector, Patna.
5. The Deputy Collector Land Reforms (DCLR), Danapur, Patna.
6. The Circle officer, Bihta, Patna.
7. The SHO, Bihta Police Station, Patna.
8. Ram Ayodhya Singh, son of - Late Balam Yadav, resident of village - Hardas Tola, Khan Gaon, Bhojpur Narhi, P.S Chandi, District-Bhojpur
9. Kakkar Yadav, son of - Late Balam Yadav resident of village - Hardas Tola, Khan Gaon, Bhojpur Narhi, P.S Chandi, District-Bhojpur
10. Shiv Shanker Yadav sons of - Late Balam Yadav resident of village - Hardas Tola, Khan Gaon, Bhojpur Narhi, P.S Chandi, District-Bhojpur
11. Prayag Yadav, sons of - Late Balam Yadav resident of village - Hardas Tola, Khan Gaon, Bhojpur Narhi, P.S Chandi, District-Bhojpur

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kamlesh Kumar, Adv
		Ms. Kahkashan Alam, Adv
		Ms. Shaziya Parween, Adv
For the State	:	Mr. Uma Shankar Pd. Singh, GP-37
		Mr. Anish Kumar, AC to GP-37
For the Res. Nos. 8 to 11	:	Mr. Jitendra Kishore Verma, Adv
		Mr. Shreyash Goyal, Adv

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT
Date : 19-11-2026

Heard the learned counsel for the petitioner, the learned counsel appearing on behalf of the State and the learned counsel for the Respondents No.8 to 11.

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

> *"That this application is being filed for quashing of the order dated 17.3.2025 passed in B.L.D.R. Act Case No. 27/24-25 by the DCLR, Danapur, Respondent No. 5 under BLDR Act 2009 by which declared the right and title of the private respondent no. 8 to 11 on the basis of fake Zamabandi no. 385/1 running in the name of their deceased mother, Late Piyariya Devi and further directed the C.O., Bihta, Respondent no. 6 to put them in possession after being measurement and to demarcate the land and accordingly the C.O., Bihta put the private respondent no. 8 to 11 in possession after being dispossessed/ ousted the petitioner and his brothers from the land allotted in their shares total measuring area 85.5 decimals in Plots No. 209, 121, 210 in khata no. 244 and 373 in thana no. 47 situated in Mauza Bihta, circle Bihta, Patna while the petitioner and his brothers had been in continuous actual physical possession upon their aforesaid ancestral land by virtue of succession and Zamabandi no. 35/1 has already been running in the name of the petitioner's father, Krishna Yadav since long back and after quashing of the said order be directed the state respondents to restore the possession of the petitioner forthwith over it.*

3. It appears from the record that vide order dated 27.05.2025 passed by an learned Coordinate Bench of this Court, while issuing notice to all the respondents, the matter was admitted and the impugned order dated 17.03.2025 passed by the D.C.L.R., Danapur, in B.L.D.R. Case No.27 of 2024-25 was stayed till further order. The matter was listed for out of turn hearing under the heading of "Hearing" on the mention slip given by the learned counsel for the respondents no.8 to 11, for vacating the stay, for which an Interlocutory Application bearing

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I.A. No.02 of 2025 has been filed. After hearing the parties, the Judgment was reserved vide order dated 05.10.2026. It appears from the record that an Interlocutory Application bearing I.A. No.01 of 2025 was filed on behalf of the petitioner for a direction upon the State respondents to maintain the status-quo at the spot, since construction, is being done by the private respondents no.8 to 11 with the help of the State instrumentalities upon the land having an area of 85.5 decimal (equivalent to 29 Katha) in Thana No.47, situated in Mauza-Bihta, on which the private respondents were put in possession on the basis of a fake Jamabandi No.385/1, after dispossessing the petitioner from the aforesaid land vide order dated 17.03.2025 passed in B.L.D.R. Case No. 27 of 2024-25 by the D.C.L.R., Danapur.

BRIEF FACTS

4. The brief facts giving rise to the present writ petition are that the plots no.209, 121 & 210 in Khata Nos.245 and 374, Thana No. 47, Mauza Bihta, Circle-Bihta, District-Patna, appertaining to an area of 85.5 decimal was in possession of the petitioner and his brothers and Jamabandi No.35/1 is already running in the name of the petitioner’s father, namely Krishna Yadav since long. The Khatiyan of the plots in question

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stood in the name of one Shivgovind Gope, son of Tilakdhari Gope, who was the common ancestors of the family of the petitioner, who died leaving behind his only son, namely Ramswaroop Gope, who owned and possessed the entire ancestral land, including the land in question, by virtue of inheritance and succession and he came in actual physical possession over the same. He cultivated the land during his life time and died leaving behind two sons, namely Ramdevan Yadav and Ramdahin Yadav, who came in peaceful possession, jointly over the entire ancestral land, including the plot in question bearing plot no.121 having an area of 78 decimal and plots no. 209 and 210 having an area of 38 decimal, the total area is 115.5 decimal. Both the brothers became the recorded tenants of the aforesaid property bearing Khata Nos.373 and 244, having Jamabandi No.35, which was running in the name of Ramdevan Yadav in Register-II of Circle-Bihta and they used to regularly pay rent to the State of Bihar. Both the brothers sold 12 Katha of land admeasuring an area of 37.5 Decimal (12 Katha), out of total 115.5 decimals in plot no.210, to one Shiv Bhuwan Ray on 21.04.1987 and the remaining area of 78 decimal, including other plots in question, where in peaceful possession of both the brothers, during their life time. Both the

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brothers died leaving behind their legal heirs and partition took place in between the legal heirs on 30.08.2012 by Gram Kachehri in Case No. P.S.- 4 and 85.5 Decimal land allotted to each of them in the aforesaid plots and thereafter they came in peaceful possession over their shares. Ramdevan Yadav died leaving behind his only son, namely Krishna Yadav, who owned and possessed the property, after death of his father and the Jamabandi No.35/1, which was running in his name, was shifted for total 85.5 decimal in reference to the property by the Circle Officer and land possession certificate was also issued by the Circle Officer, Bihta in favour of Krishna Yadav. The compensation amount was also paid to the petitioner in his bank account in the year 2019-2020 for plot no.121 having an area of 0.0474432 Acre in land acquisition proceeding for widening of Patna-Buxar National Highway and no objection was filed/raised by the private respondents herein, at the time of payment of compensation, for their share in the plot. Similarly, the heirs of Ramdahin Yadav also came in peaceful possession over their total share of 85.5 decimal in respect to the property after allotment through partition and Jamabandi No.35 is still running in the name of the grandfather, namely Ramdevan Yadav. After death of Krishna Yadav, his three sons, namely

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Pintu Yadav (petitioner), Mantu Yadav and Ranjit Yadav owned and possessed the property measuring an area of 85.5 decimal in Khata Nos.373 and 244 and similarly Lalan Yadav and his brother Babban Yadav owned and possessed their share of 85.5 decimal of land in the same plot. A Notice dated 30.09.2024 was served upon the petitioner in B.L.D.R. Case No.27 of 2024-25 by the D.C.L.R., Danapur, in exercise of his powers under Section 4 of the Bihar Land Dispute Resolution (B.L.D.R.) Act 2009 to appear on 09.10.2024 personally or through Advocate with all the relevant documents and evidences to explain the case, so that further proceeding of the case can continue. The petitioner being surprised to receive the notice, since the respondents no.8 to 11 were strangers to the petitioner, however, the petitioner and other family members appeared in the said case with supporting documents. A short notes of argument was submitted on 27.01.2025. Vide order dated 17.03.2025 passed by the D.C.L.R., Danapur, in B.L.D.R. Case No.27 of 2024-25, the petitioner and his family members were ousted from the plot in question, on the basis of fake Jamabandi created in favour of the respondents no.8 to 11 bearing Jamabandi No.385/1, which is in the name of Late Piyariya Devi, who is said to be the mother of the respondents no.8 to 11 and is a stranger to the

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petitioner. It is the case of the petitioner that neither the respondents no.8 to 11 nor their mother come within the family of the petitioner and on the basis of the wrong and fake genealogy, Jamabandi No.385/1 was created after Mutation of the property in question in the name of Piyariya Devi, behind the back of the petitioner, without any notice to the petitioner or his family members, in collusion with the staffs of the Circle Office at Bihta. It is the further case of the petitioner that neither Piyariya Devi, the mother of the respondents no.8 to 11 herein, nor their legal heirs, who are the respondents no.8 to 11 herein, at any point of time were in possession of the property in question and even no document showing their possession or any relationship has been established with the Khatiyani Raiyat, with regard to the said property. The Khatiyani Raiyat of the said property, Shivgovind Gope had only son, namely Ramswaroop Gope, who died leaving behind two sons, namely Ramdevan Yadav and Ramdahin Yadav, who were the grandfathers of the petitioner, which would be evident from the Raiyati Khatiyan. Nowhere the name of Ramsharan Gope is mentioned, however, Late Piyariya Devi is shown as his sole daughter in the genealogy, which is absolutely false and fabricated, only with a view to grab the land by creating a fake

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Jamabandi on the basis of the said genealogy. From the LPC issued in favour of the father of the petitioner for total area of 85.5 decimal of land in Khata Nos.373 and 244, it would transpire that the petitioner and his brothers are in actual physical possession and were cultivating their land during the lifetime of their grandfather since long back and from which the petitioner and his family members have been ousted by the impugned order dated 17.03.2025 passed by the D.C.L.R., Danapur. The D.C.L.R., Danapur declared the right and title of the respondents no.8 to 11 for the said plots having an area of 85.5 decimal, on the basis of the fake Jamabandi.

SUBMISSION ON BEHALF OF THE PETITIONER

5. The learned counsel for the petitioner submits that vide Annexure-2 to the writ petition, a sale deed was executed by the father and uncle of the petitioner, however no objection was raised by the respondents no.8 to 11 at any time. No Jamabandi was ever running in the name of the father of the respondents or the mother of the respondents. Private respondents were never in possession of the lands in question, therefore the D.C.L.R., has got no jurisdiction whatsoever to direct for demarcation of the land or by exceeding his jurisdiction to declare the title of the respondents over the said

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land. The learned counsel for the petitioner submits that in terms of the impugned order dated 17.03.2025 passed by the D.C.L.R., Danapur, the petitioner has been ousted without following any procedure, after directing for measurement and demarcation of the land, without any notice by the Circle Officer, Bihta, with the help of police force and the respondents no.8 to 11 have been put in possession, which is illegal and against the settled proposition of law. He submits that an Hon'ble Division Bench of this Hon'ble Court vide judgment dated 10.04.2024 passed in ***C.W.J.C. No.16494 of 2018 (Ramowtar Lakhotia vs The State of Bihar and Ors.)***, in paragraph nos.46 to 49 has held as under:

> *"46. The power to dispossess any person after cancellation of Jamabandi, where it has been created even in violation of any law for the time being in force or in contravention of any executive instruction or when there is fraudulent creation, is only a cloud over the possession till the right, title and interest of such person is determined by a court of competent jurisdiction. The fundamental duty is also cast upon the State to safeguard the right and interest of bonafide legitimate owner/custodian, if he is able to make out a prima facie case at least against a person who does not have any semblance of right or title over that holding or part thereof, but in no stretch, the State and its authority can usurp the power of the Civil Court and leave it to the executive officers to adjudicate title between the parties on the basis of Jamabandi or its cancellation.*
>
> *47. Being conscious of the settled proposition of law that illegal deprivation of property would transgress the right to life enshrined under Article 21 of the Constitution of India, the power of dispossession after cancellation of Jamabandi and restoration/delivery of possession to the proclaimed legitimate owner/custodian, it is to be held; that too after a summary*

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procedure, has no rationale and militates against the safeguards from illegal deprivation of property.

48. In the aforesaid premise of settled legal position that mutation/Jamabandi enabling a person in whose favour order of mutation/Jamabandi is passed to only pay land revenue of the land in question, the restoration/delivery of possession by holding or treating that person as legitimate owner/custodian of the land basing upon Jamabandi alone, would in the opinion of this Court be ultra vires Articles 300A and 21 of the Constitution of India. Possession though only a semblance of title/ownership, that cannot be interfered with in such a casual and cavalier manner.

49. In view thereof, this Court would strike 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 on such land on such terms as may appear to the Additional Collector to be fair and equitable" and Rules 13(11) and 13(12) of the Bihar Land Mutation Rules, 2012 for being ultra vires Article 300A of the Constitution of India, apart from being beyond the scope & ambit of Entry 45 of List II of Schedule VII."

6. He submits that dispossession of the petitioner in view of the judgment of the Hon'ble Division Bench in the case of Ramowtar Lakhotia (Supra) is illegal and deprivation from the property, which is certainly the deprivation from the right of life enshrined under the Article 21 of the Constitution of India. He submits that immediately after the order passed by the D.C.L.R., Danapur, the respondents started the construction and completed the boundary wall over the entire 85.5 decimal of the land, which has been done from 12.04.2025 to 28.04.2025. The learned counsel for the petitioner next submits that the case of

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the private respondents, if any, is purely a question of title, therefore the petitioner can only be dispossessed from the land, after adjudication by a competent Civil Court, after declaration of right, title and interest and not merely on the basis of the Jamabandi, which is also fake and fabricated. He submits that the D.C.L.R. is not empowered under the B.L.D.R. Act, 2009 to declare the title and dispossess any person from the land, therefore, the order passed by the D.C.L.R., Danapur is wholly without jurisdiction, in view of the Judgment of the Hon'ble Division Bench of this Court reported in ***2018 (3) P.L.J.R. 1007 (Maheshwar Mandal and Ors. vs The State of Bihar & Ors.)***, wherein in paragraph nos. 47, 48 and 55, it has been held as under:

> *"47. In the present case the Act of 2009 is not conferring or creating a right or liability. The Act 2009 clearly provides for resolution of the disputes which arise under any of the six enactments and have been duly adjudicated under those Acts which are mentioned in schedule-'I' of the Act of 2009. Sub-section (4) of Section 4 of the Act of 2009 is in the nature of curbing and curtaining a pre-existing common law right and, in our opinion purports to oust the jurisdiction of the civil court in respect of the disputes which though arise under any of the six enactments for determination of rights of allottees/settlee or raiyat but has not been finally determined by the civil court of competent jurisdiction. We find that the preamble of the Act of 2009 does not talk of entering into the arena of disputes which are required to be adjudicated by the civil courts. The preamble talks of such disputes with respect to raiyati land or public land allotted in favour of different classes of allottees which should otherwise have been resolved by the Revenue Authorities but are pending in the Civil Courts and the High Courts.*

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The preamble also takes note of the matters connecting to the record of rights, partition of Jamabandi, forcible dispossession of allottees/raiyats, boundary disputes etc. which are administered under the six enactments, therefore, in our opinion, the disputes which arise under any of the six enactments are first required to be adjudicated by the court, forum and the authority prescribed under those Acts and it is only when the dispute is determined and then it comes to implement the rights determined under any of the six enactments, the competent authority under the Act of 2009 may entertain such disputes/complaints.

48. On going through the entire scheme of the Act of 2009, we find that the kind of mischief which was noticed by the Hon'ble Division Bench in the case of Nand Kumar Rai (supra) has occurred in sub-section (4) of Section 4 of the Act of 2009. At the first instance sub-section (4) of Section 4 of the Act of 2009 is a vague provision because in the garb of sub-section (4) of Section 4, contention of the learned A.A.G.-IV for the State is that the competent authority can entertain all such complaints which are though with respect to the matters falling under any of the six enactments mentioned in schedule-l, but prior to filing of the complaint before the competent authority the disputes. involved therein have not been adjudicated by the competent civil court and the forums mentioned there in those six enactments. This conferment of power of the competent authority to entertain a complaint in respect of matters which are covered under any of the six enactments mentioned in schedule-I of the Act of 2009 would be a kind of mischief. The preamble of the Act of 2009 clearly provides that it is enacted for enforcement of a right conferred by or accrued under above referred six enactments. In fact sub-section (5) of Section 4 on which reliance has been placed by learned A.A.G.-IV to save sub-section (4) of Section 4, makes it clear by conferring power upon the competent authority to close such proceedings which appear to him involves complex question of adjudication of title. Here the words 'complex question of adjudication' is a word of wider connotation and it necessarily means that where the competent authority is called upon to adjudicate a question as to title of the land, such question, in absence of any adjudication under any of the six enactments mentioned in schedule-l, has to be taken as a complex question, adjudication of title therefore would not be within the purview of scope and ambit of the powers conferred upon the

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competent authority. Sub-section (2) and sub-section (3) of Section 4 read with sub-section (5) of Section 4 would make it clear that the competent authority cannot entertain a complaint in respect of disputes which are covered under any of the six enactments under schedule-'I' of the Act of 2009 but has not been decided by a competent civil court and no adjudication can take place at his hand in such matters where he is called upon to decide the question of title.

55. In the light of the discussions which we have made hereinabove, it is also declared that sub-section (5) of Section 4 of the Act of 2009 has to be read in consonance with sub-section (2) and sub-section (3) of Section 4 of the Act of 2009. Sub-section (5) of Section 5 has to be taken as a mandatory provision. It shall be the duty of the competent authority to close the proceeding which involve question of title and rights and are in the nature of disputes covered under any of the six enactments mentioned under schedule-'I' of the Act of 2009 which have not been adjudicated by a competent civil court. In all such cases the competent authority shall while closing the proceeding leave it open to the parties to seek their remedies before the competent civil court."

7. The learned Counsel for the petitioner submits that in view of the interim order dated 27.05.2025 passed by an Hon'ble Single Judge of this Court in the present case, the petitioner submitted an application on 03.06.2025, along with the orders passed by this Court, before the Circle Officer, Bihta and the S.H.O. Bihta, Police Station respectively, however despite filing of the application, along with the interim order dated 27.05.2025, the S.H.O., Bihta Police Station registered an FIR against the petitioner and his family members on the joint application filed by the private respondents herein on

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07.06.2025 bearing Bihta P.S. Case No.427 of 2025. The learned counsel for the petitioner submits that similar orders passed by the D.C.L.R. have been struck down by this Hon'ble Court, by holding therein that the D.C.L.R. cannot act as a Civil Court to decide or transfer the property ownership between the individuals nor the said Revenue Authority can decide the complicated question of right and title and nor can he declare the possession or he can put in possession after an order to demarcate the land. He submits that the mother of the private respondents no.8 to 11, namely Piyariya Devi, who claims herself to be the daughter of Ramsharan Gope, is a fictitious lady, who is a stranger to the petitioner and Ramsharan Gope was not the Khatiyani Raiyat for the plots in question. He is not the family member of the petitioner and Ramsharan Gope is an imaginary name. He submits that the so called fake Jamabandi No.385/1, which has been created in the Revenue records in the name of Piyariya Devi, a fictitious lady, since she was never in possession of the plots in question at any time or even Ramsharan Gope, who is said to be the father of Piyariya Devi, was also never in possession of the plots in question and he is an imaginary person. He submits that Jamabandi in the name of the late mother of the respondents no.8 to 11 was created on the

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basis of fake and fabricated documents, in collusion with the Circle Officer, Bihta, without any proper mutation proceeding, which was conducted behind the back of the petitioner. The petitioner has filed Jamabandi Cancellation Case No.12 of 2024-25, when he came to know about the creation of Jamabandi in the name of the mother of the respondents no.8 to 11. He submits that the respondents did not appear before the Additional Collector, even after paper publication in the said Jamabandi Cancellation Case. He submits that in the B.L.D.R. Case No.27 of 2024-25, the respondents no.8 to 11 have brought on record a forged and fabricated genealogy dated 03.05.2022 issued by the Mukhiya of the Gram Panchayat Parev, who is also the Mukhiya at present and she had issued a letter dated 31.05.2026 to the Circle Officer, Bihta for taking action against the private respondents for creating forged and fabricated genealogy on 03.05.2022, by using her false seal and signature on manufactured letter head. He next submits that during pendency of the present writ petition, the private respondents sold the entire property in question through two different sale deeds, bearing sale deed no.3996 and 3997 dated 31.03.2026 and third party right has been created after the stay given by this Hon’ble Court, although the private respondents have got no

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right to alienate the property without any right, title and interest.

8. The learned counsel for the petitioner further refers to and relies upon a judgment of an Hon'ble Single Judge dated 12.12.2023 passed in ***C.W.J.C. No.451 of 2020 (Shambhu Singh and Ors. vs The State of Bihar and Ors.),*** wherein in paragraph no.7 has held as under:

> *"7. From reading the law laid down in the aforesaid judgment, it is clear that the competent authority is duty bound to close the proceeding which involve the question of right and title and are in the nature of disputes covered under any of the six enactments mentioned in Schedule-1 of the Bihar Land Disputes Resolution Act, 2009, which have not been adjudicated by a competent Civil Court and in all such cases, the competent authority shall while closing the proceeding leave it open to the parties to seek their remedies before the competent civil Court. In my opinion, in the present case also, until and unless the right, title and interest of the respondent no.5 is decided by a competent civil Court, he cannot move the competent authority under the Bihar Land Disputes Resolution Act, 2009 for any relief."*

9. The learned counsel for the petitioner further refers to and relies upon a judgment of an Hon'ble Single Judge dated 01.04.2024 passed in ***C.W.J.C. No.17154 of 2022 (Akhilesh Singh vs The State of Bihar & Ors.),*** wherein in paragraph no.20 it has been held as under.

> *"20. The aforesaid facts/details as also a perusal of 'the 2009 Act' would clearly answer to the original question that was incorporated in the first paragraph of the writ petition. This Court thus holds that the Deputy Collector Land Reforms, Bikramganj Rohtas definitely travelled beyond Section 4 of 'the 2009 Act' in passing the order in question and in those circumstances, the same*

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needs interference."

SUBMISSION ON BEHALF OF THE STATE

10. Per contra, the learned counsel appearing on behalf of the respondents nos.8 to 11 submits that a Jamabandi bearing Jamabandi No.385/1 was created in favour of the private respondents and a receipt was issued in their favour. He submits that rightly or wrongly a Jamabandi has been created in favour of the private respondents no.8 to 11 and unless and until it is annulled, the rights of respondents no.8 to 11 over the plot in question is existing. He submits that from perusal of Annexure-R/1 to the Interlocutory Application bearing I.A. No.02 of 2025, it would transpire that the Jamabandi is at least existing since 2014, since the receipt shows the receiving of payment of tax in favour of the government. He submits that the revenue receipt is prima facie proof of possession in favour of the respondents nos.8 to 11. The learned counsel for the private respondents next submits that the present dispute relates to 85.5 decimals of land, comprised of Khesra Nos.209, 121 and 210 appertaining to Khata Nos.244 and 373 in Thana No.47, Mauza-Parev (wrongly described as Mauza-Bihta in the writ petition), District Patna with respect to which Jamabandi No.385/1 is running in the name of its recorded Raiyat Piyariya Devi, who is

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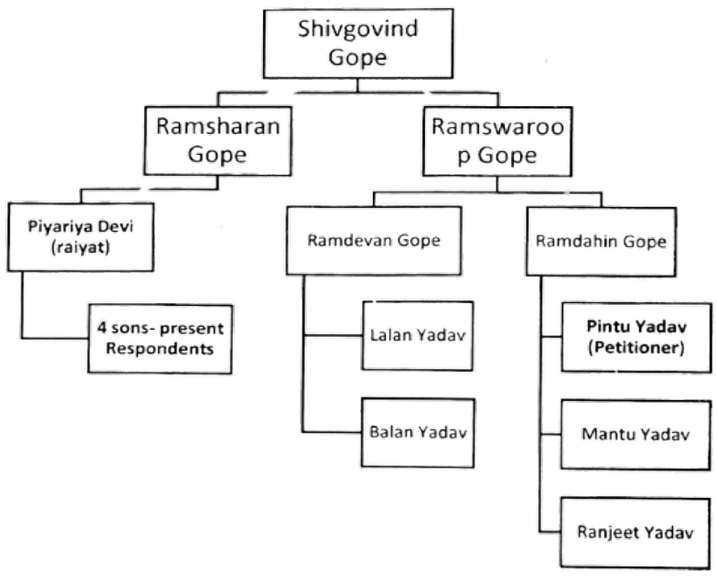
the mother of the private respondents herein. The respondents are the sons of the deceased Raiyat Late Piyariya Devi, who was the daughter of Ramsharan Gope (full brother of petitioner's great grandfather Ramswaroop Gope). He refers to the genealogical table provided in paragraph no.6 of the Interlocutory Application, which is being reproduced herein below:



11. He submits that the petitioner has disputed the genealogy mentioned in the Interlocutory Application before the D.C.L.R. as well as in the present written petition and stated that Shivgovind Gope had only one son, namely Ramswaroop Gope, therefore, the entire property devolved in the single branch of Ramswaroop Gope, which is contrary to the findings of the D.C.L.R., Danapur in B.L.D.R. Case No.27 of 2024-25, which

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is the impugned order dated 17.03.2025. He submits that on account of the findings of the D.C.L.R., Danapur, the claim of the petitioner that the land in question has been inherited in full by Ramswaroop Gope, as he was the only son of Shivgovind Gope is not correct. It is not in dispute that that Late Piyariya Devi has been recorded as a Raiyat and till date the Jamabandi No.385/1 is running in the name of Piyariya Devi for the lands in question.

12. The learned counsel for the private respondents submits that the petitioner has deliberately used the expression Title, to mislead this Hon'ble Court into accepting that the D.C.L.R., Danapur has declared the title of the present respondents over the land in question, which falls in the exclusive jurisdiction of the Civil Court of the competent jurisdiction, whereas the fact is that by the impugned order, the Raiyati right of the private respondents has been declared over the land in question, on the basis of the revenue records and the Jamabandi entry, which is within the power conferred under Section 4 (1) (g) of the B.L.D.R. Act, 2009 and if the petitioner seeks to challenge the Jamabandi running in the name of Late Piyariya Devi, which is running since long, the remedy available to the petitioner is to approach the Additional Collector or the

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competent Civil Court. He submits that the B.L.D.R. Case No.27 of 2024-25 was filed by the private respondents herein under Section 4 of the B.L.D.R. Act, praying therein for the declaration of the Raiyati rights over the land in question, after getting it measured by a Survey knowing Pleader Commissioner/Amin and restoration of their possession over the land in question, from unauthorized dispossession by the branch of Ramswaroop Gope, which also includes the petitioner. The Khatiyani Raiyat of the land in question was Shivgovind Gope, who was the grandfather of the Raiyat, namely Piyariya Devi, the mother of the private respondents. Amicable partition was carried out between both the sons of the Khatiani Raiyat Shivgovind Gope, namely Ramsharan Gope and Ramswaroop Gope and accordingly they came in peaceful possession of their respective shares, consisting of 85.5 decimals each. Being the only daughter of Ramsharan Gope, Piyariya Devi inherited and came in peaceful possession over her share of 85.5 decimals. Accordingly, Jamabandi No.385/1 was created and is running in her name for the land in question.

13. The learned counsel for the private respondents further submits that the writ petition is not maintainable in view of availability of statutory remedy of appeal against the

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impugned order before the Commissioner under Section 14 of the B.L.D.R. Act and as such the order of stay is fit to be vacated and the writ petition itself is fit to be dismissed. He submits that there is no infirmity in the impugned order passed by the D.C.L.R. as the order is well within his statutory powers conferred under Section 4 of the B.L.D.R. Act and which has been upheld by this Hon'ble Court.

14. The learned Counsel for the private respondents refers to and relies upon a judgment of the Hon'ble Division Bench of this Court in the case of (***Maheshwar Mandal vs The State of Bihar)*** reported in ***2018 (3) P.L.J.R. 1007***. He submits that in the said decision, the Hon'ble Division Bench, while deciding the constitutional validity of the B.L.D.R. Act had held that the competent authority under the Act is empowered under Section 4 thereof to implement the right of allottees/settles/raiyats, which have been determined under any of the six enactments stated in Schedule-I of the B.L.D.R. Act. In the present case, Raiyati right of Piyariya Devi has been determined under the Bihar Land Reforms Act, 1950 and the Bihar Tenancy Act, as her name has been recorded as the Raiyat and long standing Jamabandi No.385/1 is running in her name, with respect to the lands in question, therefore, the order passed

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by the D.C.L.R. is well within his jurisdiction. He submits that the private respondents claiming to be the Khatiyani Raiyat through their mother Piyariya Devi and ancestor Shivgovind Gope, come within the meaning of the allottee/settlee/raiyat as stated in the preamble of the B.L.D.R. Act. Therefore, they are entitled for the protection granted by the B.L.D.R. Act.

15. The learned Counsel for the private respondents refers to and relies upon a judgment of this Hon'ble Court dated 29.03.2023 passed in ***C.W.J.C. No.9536 of 2022 (Basudeo Saw & Ors. Vs The State of Bihar & Ors.)*** and the judgment dated 03.04.2023 passed in ***C.W.J.C. No.6259 of 2020 (Ram Bachan Singh Vs The State of Bihar & Ors.).*** He submits that in view of the judgment referred above, there is no infirmity in the impugned order and the petitioner has neither a prima facie case nor balance of convenience in his favour. Further, the petitioner does not stand to suffer any irreparable injury, if the impugned order is continued to operate and interim order of this Hon'ble Court is vacated. He submits that in the garb of the interim order dated 27.05.2025 passed in the present case, the petitioner and other members of his branch are attempting to construct and create third party interest over the land in question and are attempting to alienate the land in question to certain persons,

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who are being assisted by the musclemen, therefore, it is becoming increasingly difficult for the private respondents to defend themselves against the members of the petitioner's branch. The learned counsel for the private respondents finally submits that so far the order passed by the D.C.L.R, Danapur, whereby the D.C.L.R. Danapur has decided the title and possession in favour of the private respondents is concerned, the same is not correct and the impugned order passed by the D.C.L.R., Danapur on 17.03.2025 is fit to be set aside to that extent, whereby the title and possession of the private respondents has been decided, since the title and possession cannot be decided by the D.C.L.R. He submits that the order of the D.C.L.R., to the extent for demarcating the land in question, filed by the private respondents, is well within his jurisdiction and is not required to be interfered with by this Hon'ble Court in the present writ petition.

16. The learned counsel appearing on behalf of the State also supports the contention made by the learned counsel for the private respondents and submits that the order passed by the D.C.L.R., Danapur does not suffer from any infirmity, therefore, the writ petition filed by the petitioner is fit to be dismissed on the ground of maintainability, since the petitioner

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has got a remedy of filing an appeal under Section 14 of the Act before the Commissioner, assailing the order dated 17.03.2025 passed by the D.C.L.R., Danapur. He submits that the petitioner, without availing the alternative remedy, has directly approached this Hon'ble Court by filing the present writ petition.

CONSIDERATION

17. Having heard the learned counsel for the parties and after going through the records, the primary issue which arises for consideration in the present writ petition is that whether the Deputy Collector Land Reforms, Danapur, exercising jurisdiction under the Bihar Land Disputes Resolution Act, 2009 (hereinafter referred to as 'the 2009 Act'), could have adjudicated upon the competing claims of inheritance and title raised by the parties and on that basis, declared the Raiyati rights of the private respondents, over the land in question and directed for delivery of possession in their favour.

18. Before deciding the issue, it would be relevant to examine the scope and extent of the jurisdiction conferred upon the competent authority under Section 4 of the 2009 Act. Although Section 4 (1) (g) provides for declaration of the right of a person, the said provision cannot be read in isolation or as

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conferring unrestricted jurisdiction upon the D.C.L.R. to determine questions of ownership and title between rival claimants. The scope of the said provision has already been considered and authoritatively settled by an Hon'ble Division Bench of this Court in Maheshwar Mandal & Anr. (Supra). In the aforesaid judgment, the Hon'ble Division Bench, while examining the scope of the provisions of the 2009 Act, particularly Section 4 (1) (e) and Section 4 (1) (g), held that the jurisdiction of the competent authority is limited to the enforcement of rights, which have already been determined and adjudicated by a competent Civil Court or by an appropriate Court, authority or forum under any of the enactments mentioned in Schedule-I of the 2009 Act. The competent authority cannot, under the garb of exercising powers under Section 4 (1) (g), itself create or confer a right upon a person which requires adjudication by a competent Civil Court. The Hon'ble Division Bench has further held, particularly in paragraph no.55 of the aforesaid judgment, that the provisions of Section 4 (5) of the 2009 Act are mandatory in nature. Where the competent authority finds that the proceeding involves a complex question of adjudication of Title and rights, which have not been adjudicated by a competent Civil Court, it is incumbent

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upon such authority to close the proceeding and leave it open to the parties to pursue their remedies before the competent Civil Court.

19. Thus, the position of law emerging from the aforesaid judgment is clear. The jurisdiction of the D.C.L.R. under the 2009 Act is not that of a Civil Court, empowered to adjudicate upon competing claims of ownership, inheritance, succession and partition. The authority may exercise its statutory powers for the implementation of rights, which have already crystallized through an adjudication by a competent Court or forum. However, where the very source of the claimed right is disputed and its determination requires adjudication of complicated questions of Title, the D.C.L.R. cannot assume the jurisdiction of a Civil Court.

20. Now coming to the facts of the present case, it would appear that the claim of the petitioner is founded upon the genealogy, whereby, according to him, the recorded tenant, namely, Shivgovind Gope, had only one son, Ramswaroop Gope, through whom the entire property devolved upon the subsequent branches of the family. On the other hand, the case of the private respondents is that Shivgovind Gope had two sons, namely, Ramsharan Gope and Ramswaroop Gope and that

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their mother, Late Piyariya Devi, being the daughter of Ramsharan Gope, had inherited her share in the ancestral property.

21. The aforesaid competing claims clearly demonstrate that the dispute between the parties is not confined to a mere correction of revenue entries or a simple boundary dispute. The determination of the respective rights of the parties would necessarily require examination of the disputed genealogy, the relationship between the parties and their common ancestors, the alleged devolution of property through succession, the respective shares of the branches of the family and the claim of possession over the land in question. These are substantial questions of Title, which cannot be conclusively determined through a summary proceeding before the D.C.L.R. under the 2009 Act. The contention advanced on behalf of the private respondents that the impugned order merely recognizes their raiyati rights on the basis of Jamabandi No.385/1 and does not declare their title, cannot be accepted. The jurisdiction of an authority has to be determined by the substance and effect of the order passed by it and not merely by the expression used therein. In the present case, the D.C.L.R. has proceeded to accept the claim of inheritance set up by the private respondents,

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recognize their entitlement over the land in question and consequently direct demarcation and delivery of possession in their favour. In substance, therefore, the D.C.L.R. has adjudicated upon the competing claims of the parties concerning their entitlement to the property.

22. The mere existence of Jamabandi No.385/1 in the name of Late Piyariya Devi, or the issuance of rent receipts in respect thereof, cannot, by itself, be treated as a prior adjudication of the disputed questions of inheritance and Title. The petitioner has specifically disputed the genealogy, on the basis of which the private respondents claim succession through Late Piyariya Devi. The existence of a revenue entry, when its very foundation and the source of the claimed entitlement are seriously disputed, cannot empower the D.C.L.R. to conclusively determine such questions in a proceeding under the 2009 Act. The submission of the private respondents that their raiyati rights had already been determined under the Bihar Land Reforms Act, 1950 and the Bihar Tenancy Act, 1885, has also been considered. However, on the materials placed before this Court, the basis principally relied upon in support of the said submission is the existence of Jamabandi No.385/1 and the corresponding revenue receipts. No prior adjudication by a

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competent Civil Court or other competent forum determining the disputed genealogy and the respective rights of the parties has been demonstrated. In such circumstances, the D.C.L.R. could not have treated the existence of the Jamabandi as a substitute for adjudication of the underlying dispute.

23. The reliance placed by the private respondents upon the provisions of Section 4 (1) (g) of the 2009 Act is, therefore, misplaced. The said provision, as interpreted by the Hon'ble Division Bench in Maheshwar Mandal (supra), does not authorize the competent authority to undertake a fresh adjudication of Title or to declare rights, on the basis of competing claims of inheritance, which have already not been determined by a competent court or forum. It is apparent that the direction for measurement and demarcation of the land, followed by delivery of possession to the private respondents, was consequential to the determination made by the D.C.L.R. regarding their entitlement to the disputed property. In the facts of the present case, such consequential directions cannot be separated from the foundational adjudication of rights, which the D.C.L.R. was not competent to undertake. The power to demarcate land in an appropriate boundary dispute cannot be utilized as a means to give effect to an otherwise unauthorized

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determination of Title and possession.

24. This Court is conscious of the submission made on behalf of the private respondents as well as the State that an alternative statutory remedy of appeal is available under Section 14 of the 2009 Act. However, the primary challenge in the present writ petition is to the very jurisdiction of the D.C.L.R., Danapur, to undertake the adjudication, which forms the foundation of the impugned order. Since, the order has been passed beyond the limits of the jurisdiction recognized under the 2009 Act and contrary to the law declared by the Hon'ble Division Bench of this Court in Maheshwar Mandal (supra), this Court is not inclined to relegate the petitioner to the statutory appellate remedy.

25. In view of the aforesaid discussion, this Court is of the considered opinion that the D.C.L.R., Danapur, travelled beyond the jurisdiction vested in him under the 2009 Act, while adjudicating upon the competing claims of inheritance and Title raised by the parties and thereafter, directing for demarcation and delivery of possession. The impugned order dated 17.03.2025 passed in B.L.D.R. Act Case No.27 of 2024-25, therefore, cannot be sustained and is liable to be set aside.

26. Accordingly, the present writ petition is allowed.

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The order dated 17.03.2025 passed by the Deputy Collector Land Reforms, Danapur, in B.L.D.R. Act Case No.27 of 2024-25 is hereby quashed and set aside.

27. The matter is remitted back to the D.C.L.R., Danapur, for the limited purpose of passing appropriate order in accordance with the law laid down by the Hon'ble Division Bench of this Court in the case of Maheshwar Mandal (Supra), only with respect to the demarcation of the land. The D.C.L.R. shall bear in mind the mandatory nature of Section 4 (5) of the 2009 Act and having regard to the disputed questions of genealogy, inheritance and title involved in the present matter, shall close the proceeding, leaving it open to the parties to seek appropriate remedies before the competent Civil Court. The D.C.L.R. shall not undertake any fresh adjudication of the title or ownership of the parties in respect of the land in question.

28. It is made clear that this Court has not expressed any opinion on the merits of the rival claims of the parties regarding their right, title and interest over the land in question. The genuineness or otherwise of Jamabandi No.35/1 and Jamabandi No.385/1, the validity of the respective genealogies, the claim of succession through the common ancestors and the actual entitlement of the parties shall remain open for

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adjudication before the competent Civil Court in accordance with law. The parties shall also be at liberty to seek appropriate reliefs, including declaration of title, confirmation or recovery of possession and injunction, as may be available to them in law.

29. Pending application, if any, shall also stand disposed of in the aforementioned terms.

shital/- **(Ritesh Kumar, J)**

AFR/NAFR	NAFR
CAV DATE	05.10.2026
Uploading Date	19.11.2026
Transmission Date	N/A

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