

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15455 of 2021

Awadhesh Pandey Son of Late Hari Krishna Pandey Resident of Village-Basuhari, P.O.-Balua, P.S. Guthani, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue, Government of Bihar, Patna.
2. The Collector, District-Siwan.
3. The Additional Collector, District-Siwan.
4. The Additional Collector-Cum-District Public Complain Redressal, District-Siwan.
5. The Sub-Divisional Officer, District-Siwan
6. The Deputy Collector
7. The Anchal Adhikari, Anchal Guthani, District-Siwan
8. The Superintendent of Police, District-Siwan
9. THE S.D.P.O. Siwan, District-Siwan
10. The Officer-In-Charge, Police Station-Guthani, District-Siwan
11. Aditya KUMar Pandey RTd. Colonel, Son of Late Gauri Shankar Pandey, Resident of Village-Balua, P.S. Gughani, District-Siwan (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Cravi Shankar Sahay, Advocate Mr.Rakesh Kumar Mishra, Advocate Mr.Abhishek Singh Rathore, Advocate
For the Respondent/s	:	Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-02-2026

Heard Mr. Ravi Shankar Sahay along with Mr. Rakesh Kumar Mishra and Mr. Abhishek Singh Rathore, learned counsels appearing on behalf of the petitioner; Mr. Ravi Bhushan Bharat, learned counsel appearing on behalf of respondent no.11 and Mr. Asif Kalim, learned AC to AAG 12 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 an appropriate writ/writs, direction/directions commanding the respondents to ensure and provide all the protection to the petitioner against the settlement of the land in his favour the details of which stated ahead through settlement case no.01/1990-91 under the scheme of the government for army personnel.

II. For issuance of the further appropriate writ directing the authority prohibiting them to interfere with the rightful title and possession of the petitioner over the land which was settled to him through settlement case no.1/1990-91 after following the due process of the law under the scheme by the government for the army men.

III. To prove the appropriate relief as it deemed fit and proper under facts and circumstances of the case.”

3. The brief facts of the case is that the petitioner, who is an Army personnel holding the rank of *Naib Subedar*, was allotted 5 Kathas and 2 Dhurs of land, appertaining to Khata No. 193 and Survey Plot No. 68, in respect of which he is seeking a declaration of his lawful possession, which was settled in his name.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in peaceful possession of the said land and has been regularly paying rent fixed by the revenue authority after the settlement had been made in his favour in accordance with the Welfare Scheme of the Department of Revenue and Land Reforms, dated 14th/16th August, 1972, communicated vide Letter No. 4(**Annexure**



“P/13” to the writ petition).

5. Learned counsel further submitted that the petitioner is aggrieved by the illegal and arbitrary actions of Private Respondent No. 11, who has repeatedly interfered with and disturbed the peaceful possession of the petitioner, purportedly on the basis of Letter No. 380 dated 02.06.2021, issued by the Circle Officer, Siwan, and addressed to the District Magistrate, Siwan and on the basis of application made by the Circle Officer, Jamabandi Case No.01/2021-22 has already been instituted. The description of the land is as follows : -

प्रश्नगत भूमि सर्वे खतियान के अनुसार गैरमजरुआ मालिक कर के दर्ज है, जिसका विवरण निम्न प्रकार है:-

मौजा	थाना	खाता नं०	सर्वे नं०	रकबा	जमाबंदी नं०
बसुहारी	106	193	68	0-5-2	94
बसुहारी	106	135	465	0-3-7	अवधेष पाण्डेय
				(कुल रकबा	0-8-9)

6. Learned counsel further submitted that the action of the Circle Officer and the Additional District Magistrate is not sustainable in the eye of law, inasmuch as, the land settled under the Welfare Scheme of the year 1972 cannot be subjected to proceedings under Section 9(11) of the Bihar Land Mutation Act, 2011, nor under Rule 14 framed thereunder.

7. Learned counsel appearing on behalf of the petitioner is also aggrieved by the statement and the



information contained in Paragraph No.8 of the counter affidavit, which are re-produced hereinafter as follows : -

“8. That the petitioner has not produced settlement parcha as a proof of completion of settlement and instead is relying on creation of Jamabandi to support settlement in his name.

(i) The petitioner has filed ordersheet of land settlement case no.01/1990-91 as (Annexure 3 to the writ petition). The then C.O., Guthni vide order dated 30.06.1990 and then Additional Collector vide order dated 19.03.1997 have mentioned about non receipt of objection to the settlement.

(ii) But the record shows that objection had been filed by Gauri Shankar Pandey firstly on 4.9.1997 and thereafter on 13.07.1998.

(iii) The private respondent no.11 claimed that the respondent authorities neither issued notice of settlement proceeding to heirs of ex-land lord nor took note of aforesaid objections.

(iv) The objector Gauri Shankar Pandey came from the family of ex-land lord claiming the land in his own right and raised dispute against the settlement. The departmental circular prohibited settlement of disputed land.

(v) The petitioner wrongly claimed to be a land less person. The petitioner has got settlement of more than 20 decimal land in Survey No.68 as Sahan which is in excess of 12 decimal i.e. fixed limit under departmental circular for which government sanction was necessary.

(vi) The petitioner tried to grab Survey No.67 which is a government land.

(vii) The settlement was based on defective Khatiyani which did not contain entries in column 4.

(viii) The settlement proposal was based on wrong inquiry report.

(ix) The petitioner got settlement of Survey No.68 for construction of house which was never constructed.

(x) The petitioner has proceeded settlement in violation of government policy/rules.

From the foregoing facts, it is apparent that the petitioner is not entitled to claim protection of his settlement. In fact, the petitioner has pleaded disputed facts which shall be duly inquired into and considered by the competent authority in settlement cancellation case and therefore this writ petition is premature and lack bona fide.”

8. *Per contra*, Mr. Asif Kalim, learned counsel



appearing on behalf of the State submitted that the petitioner has filed the present writ petition without availing the statutory remedy provided under Section 4 of the Bihar Land Dispute Resolution Act, 2009 (hereinafter to be referred to as the “BLDR Act”). He further submitted that in the event of cancellation of the petitioner’s *parcha*, the petitioner has an efficacious alternative remedy available before the appropriate Forum under the said Act.

9. Mr. Pradum Bhushan Bharat, learned counsel appearing on behalf of the private Respondent No. 11, reiterates the averments made in the counter affidavit filed by the State. He further informs that the land in question is *Khatiyani* land belonging to private Respondent No. 11, who is an Army personnel. The description of the said *Khatiyani* land has been duly mentioned in his petition submitted before the Public Grievance Redressal Authority. Upon consideration of the application of Respondent No. 11, the Grievance Officer made a recommendation to the Circle Officer to act in accordance with law. As such, the writ petition is pre-mature since before any action having been taken against the petitioner, the petitioner has filed the present writ petition.

10. At this stage, learned counsel appearing on behalf



of the petitioner submitted that the Welfare Scheme is a scheme of the State Government and has statutory force that no person can dispossess an Army personnel from land that has been allotted/settled in his favour by the State Government.

11. Heard the parties.

12. Having heard the rival submissions made on behalf of the parties, I find that the present writ petition has been filed at a stage when final action is yet to be taken by the authority concerned, pursuant to the recommendation made by the Circle Officer, as contained in ***Annexure-P/6*** bearing Memo No. 380 dated 02.06.2021. By the said memo, the Circle Officer has recommended cancellation of the *Jamabandi* standing in the name of the petitioner in respect of the aforesaid land, which the petitioner has claimed to have been settled in his favour in the year 1999, vide Settlement Case No. 1/1990-91.

13. The order of settlement has been duly brought on record by way of ***Annexure-P/3***, being the order dated 30.08.1999 passed by the Circle Officer in compliance with the direction of the District Magistrate-cum-Collector. It has further been clarified by the learned counsel for the State that the Circle Officer while recommending for cancellation is not required to see the effect of the Settlement Case No. 1/1990-91, pursuant to



which the *Parcha* was issued in favour of the petitioner, as is evident from the letter dated 30.08.1999.

14. The record reveals that the petitioner has remained in peaceful and uninterrupted possession of the land in question, and according to him, he is still in possession of the said land. The petitioner is also aggrieved by the alleged illegal and arbitrary action of the private respondent no. 11, who according to the petitioner in connivance with the revenue authorities has repeatedly disturbed the petitioner by filing frivolous cases initiated on the basis of complaints calling for necessary action by the concerned Circle Officer in the present case.

15. It is well settled principle of law, if a Court, tribunal or *quasi* judicial authority wrongly assumes jurisdiction without discussing the jurisdictional fact, such order or action can be questioned by a writ of certiorari. The under line principle is that by erroneously assuming jurisdiction of such jurisdictional fact, no authority can confer upon it itself jurisdiction, which it otherwise doesn't possess. The absence of jurisdictional fact is strong ground to invoke writ jurisdiction and in alternative, if a jurisdictional fact exist, the plea of alternative remedy could be a hurdle in entertaining a writ petition.



16. From the records and the facts, which have been brought along with the writ petition, I find that the Circle Officer has assumed jurisdiction insofar as recommending for cancellation of Jamabandi without discussing the jurisdictional fact can be held to have acted without authority of law. In such circumstances, the action of the Circle Officer calls for interference of this Court.

17. Accordingly, the office order contained in Memo No. 380 dated 02.06.2021 is hereby quashed and set aside.

18. Before Parting with this order, I find that the Revenue Officers, particularly the Circle Officers in the State of Bihar have frequently being found to give rise to frivolous litigation, who starts with questioning the title and possession on the basis of paper or applications filed by persons claiming an interest in property of others recommending for cancellation of Jamabandi. As a result of illegal action of the C.O., the same has happened in the present case, the State Government has not claimed that the land settled in favour of the petitioner is government land. Moreover, in absence of any report from the competent authority as required under the Government Scheme of 1972, the action of the Circle Officer can only be said to be beyond the scope of his jurisdiction.



19. The Additional Chief Secretary, Department of Revenue, is required to take steps to educate, particularly, the Circle Officers, who, by their order, put the citizens to face hardship leading to filing of cases against their illegal order before this Court and tribunals.

20. With the above observation/direction, the present writ petition stands disposed of.

chn/-

(Purnendu Singh, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2026
Transmission Date	NA

