

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10133 of 2026

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1. Kamakhya Narayan Mishra Son of Late Rama Shankar Mishra, Resident of Village Agahra. P.O. Gaura, P.S. Gaura. District Saran, Bihar- 841443.
 2. Govind Jee Mishra, Son of Late Rama Shankar Mishra, Resident of Village Agahra. PO. Gaura, P.S. Gaura. District Saran, Bihar-841443.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate-cum-Collector, Saran at Chapra, District-Saran.
3. The Additional Collector, Saran at Chapra, District- Saran.
4. The Circle Officer, Marhaura, District- Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Shruti Singh, Advocate
For the Respondent/s : Mr. Government Advocate (08)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-07-2026 Heard Ms. Shruti Singh, learned counsel for the

petitioners and Mr. Upendra Singh, learned counsel for the State.

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

*“(i) for issuance of an appropriate writ
in the nature of Certiorari for quashing the notice
dated 20.09.2025 (Annexure P/6) issued by the
Respondent No.4, namely the Additional Collector,
Saran at Chapra, in Jamabandi Cancellation Case
No.763 of 2025-26, whereby proceedings for
cancellation of the petitioners' long-standing
Jamabandi in respect of land appertaining to Khata
No.245, Plot Nos.2643 and 2767, situated at*



Mauza-Aghara, Pargana-Goa, Thana No.27, Circle-Marhaura, District-Saran, have been initiated and the petitioners have been directed to appear on 09.10.2025 along with their objections and supporting documents,

(ii) for issuance of an appropriate writ in the nature of Certiorari for quashing the very initiation of Jamabandi Cancellation Proceeding being Jamabandi Cancellation Case No.763 of 2025-26, as the same has been initiated without recording the jurisdictional satisfaction contemplated under Section 9 of the Bihar Land Mutation Act, 2011, without disclosing any material to indicate that the petitioners' Jamabandi had been created in violation of any law or executive instruction and, therefore, the assumption of jurisdiction itself is illegal and unsustainable in law.

(iii) for issuance of an appropriate writ, order or direction declaring that the impugned notice dated 20.09.2025 and the entire proceedings of Jamabandi Cancellation Case No.763 of 2025-26 are arbitrary, illegal, non-speaking, without



jurisdiction, violative of the provisions of the Bihar Land Mutation Act, 2011 as well as Articles 14, 21 and 300A of the Constitution of India.

(iv) for issuance of an appropriate writ in the nature of Prohibition, prohibiting the respondent authorities from proceeding further with Jamabandi Cancellation Case No.763 of 2025-26 or initiating any action for cancellation of the petitioners' long-standing Jamabandi under the provisions of the Bihar Land Mutation Act, 2011, unless and until the State Government obtains an appropriate declaration of title from a competent Civil Court in respect of the land in question, over which the petitioners have been in long-standing possession supported by historical Jamabandi and revenue records.

(v) for issuance of an appropriate writ, order or direction declaring that the dispute sought to be raised by the respondents pertains to disputed questions of title arising out of an old settlement, long-standing Jamabandi and historical revenue records, which cannot be adjudicated in summary proceedings under Section 9 of the Bihar Land



Mutation Act, 2011, and that the appropriate remedy, if any, lies before the competent Civil Court.

(vi) for issuance of any other writ, order, direction or relief/reliefs to which the petitioners may be found entitled in the facts and circumstances of the present case.”

3. The petitioner claims to own a piece of land details of which is/are incorporated in the prayer portion itself and needs no repetition.

4. With the help of different rent receipts, the claim is that the father, late Rama Shankar Mishra and after him, the two petitioners/sons are occupying the land without any hindrance.

5. The submission further is that one Surendra Singh moved before this Court in **CWJC No. 19448 of 2024 (Surendra Singh vs. The State of Bihar & Ors.)** for directing the Circle Officer, Marhaura, Saran at Chapra to remove the encroachment made over the land (the details of petitioner land stands recorded). It came to be disposed of on 03.01.2025 by a Coordinate Bench (Hon’ble Mr. Justice Mohit Kumar Sah) and paragraph-3 read as follows:

“3. Having regard to the facts and circumstances of the case, I deem it fit and proper



to grant liberty to the petitioner to file appropriate petition under the provisions of the Bihar Public Land Encroachment Act, 1956, for redressal of the aforesaid grievances, before the respondent no.5, within a period of four weeks from today, whereupon the respondent no.5 shall enquire into the matter within a period of four weeks and in case it is found that the land in question is a public land, he shall initiate appropriate proceedings under the provisions of the Bihar Public Land Encroachment Act, 1956 and after giving due opportunity to the affected persons, shall pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, in accordance with law, forthwith.”

6. This followed the report vide letter no. 1492 dated 18.09.2025 issued by the Circle Officer, Marhaura, Saran and addressed to the Additional Collector, Saran at Chapra in which after recording that though the name of Rama Shankar Mishra is recorded as an *asami* of the ex landlord Brijeshwari Dutt Pandit, however, the enquiry report by the Subordinate Officials found it to be *prima facie* suspicious, and accordingly, a recommendation was made for cancellation of the jamabandi.



7. This followed the notice dated **20.09.2025** issued by the Additional Collector in **Jamabandi Cancellation No. 763 of 2025-26 (State through the Circle Officer, Marhaura vs. Govind Mishra and Ors.)**.

8. The recommendation of the Circle Officer, Marhaura is dated 18.09.2025 and the notice records its date as 20.09.2025. Ten months later, the present writ petition has been preferred challenging the said notice.

9. Learned counsel for the petitioner submits that though they have submitted their reply alongwith all the documents before the Additional Collector, Saran at Chapra, no decision has been taken and expecting an adverse order, the writ petition.

10. Learned State counsel, on the other hand, has taken this Court to paragraphs-9 and 10 to show that the petitioner has dedicated two paragraphs of the writ petition alleging ill motive of **Surendra Singh** which resulted into disposal of **CWJC No. 19448 of 2024 on 03.01.2025** and initiation of **Jamabandi Cancellation Case No. 763 of 2025-26**. However, in the list of respondents, the name of Surendra Singh is missing.

11. The submission further is that Surendra Singh in his writ petition made both the petitioners as also respondent



nos. 6 and 7 but here the petitioners chose to skip his name and as such, this case is fit to be dismissed for non-joinder of the necessary parties.

12. The further submission is that the Additional Collector, Saran, Chapra has simply issued notice. Ten months ago on the basis of a report submitted by the Circle Officer, Marhaura. The petitioner has already filed reply and order has been passed only on the basis of apprehension of an adverse order, this writ petition. In that background, it is a premature petition and be dismissed.

13. Having heard the parties, this Court has to take note of the submissions put forward by the respective counsels. Learned State counsel has objected to the consideration of the writ petition on the ground that Surendra Singh is missing in the list of the respondents and as such, it be dismissed for non-joinder of necessary parties. Further, a notice has been issued, petitioners have submitted their reply, no decision has come and in that background, interfering in the ongoing proceeding is unwarranted.

14. In the case of **Kamleshwar Tiwary vs. The State of Bihar & Ors. (CWJC No. 10372 of 2017)**, this Court had taken note of the Hon'ble Apex Court judgment in the case of **Chief Conservator of Forest, Government of Andhra**



Pradesh vs. Collector and Ors. reported in (2003) 3 SCC 472

wherein in para 12 and it was observed as under:

“12. This Court is guided by the order of the Hon'ble Apex Court in the case of Chief Conservator of Forest, Government of Andhra Pradesh Vs. Collector and Ors reported in 2003 (3) SCC 472 in which it was held that non-joinder of necessary party can be the ground for dismissal of writ petition. Having taken note of the fact and hearing the parties, this Court is of the opinion that the petitioner deliberately preferred the writ petition knowing very well about the aforesaid facts/purchase made by the purchasers from the father of Vipin Mishra namely, late Deepnarayan Mishra still deliberately chose not to make the purchasers as party respondents. Once the Circle Officer has come to the conclusion that only 0.01 decimal of land of Deep Narain Mishra is left, he has to move before the competent Civil Court.”

15. Similarly, the petitioner in this case chose to dedicate two paragraphs of the writ petition alleging the role of Surendra Singh, and in fact, the present petition is based on the allegation made on him that it was he who interfered with the



long peaceful physical possession of the land by filing the writ petition. Still, he was left out in the list of respondents in the writ petition.

16. Further, on notice, the petitioners duly appeared and filed their reply, no order has come yet. Only apprehension of an adverse order prompted them to file writ petition which has to be rejected.

17. Though this Court observes that the notice was issued on 20.04.2025 and we are in the month of July, 2026, it is high time that the Additional Collector, Saran at Chapra passes a reasoned order if the pleadings stand completed.

18. The writ petition fails and is accordingly dismissed. No Cost.

(Rajiv Roy, J)

Adnan/-

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