

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18967 of 2018

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1. Siya Devi and Anr Wife of Late Bhudeo Panjiyara, resident of Village-
Mojahidpur, Police Station- Samarpur, District- Banka through her Son
namely Raghbendra Panjiyara, Son of Late Bhudeo Panjiyara, resident of
Village- Mojahidpur, Police Station- Samarpur, District- Banka.
 2. Most. Jaimala Devi, Wife of Late Dasrath Panjiyara, resident of Village
Mojahidpur, Police Station- Samarpur, District- Banka through her Son
Amrendra Panjiyara, Son of Late Dasrath Panjiyara, resident of Village-
Mojahidpur, Police Station- Samarpur, District- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Banka.
3. The Additional Collector, Banka.
4. The Deputy Collector Land Reform, Banka.
5. The Circle Officer, Anchal- Amarpur, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pravashankar Mishra, Adv.
For the Respondent/s : Mr. Perna Anand, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 05-01-2026

I.A. No. 02 of 2021

The aforesaid Interlocutory Application has been preferred for substituting the petitioner no. 1, Siya Devi @ Sita Devi who died on 12.08.2019 leaving behind the heirs as recorded in paragraph 2 of the petition as follows:

(i) Rajendra Panjiyara, aged about 68 years, Gender-male, Son of Late Bhudeo Panjiyara, resident of village- Mojahidpur, Police Station- Amarpur, District-Banka. He is the eldest son of the



deceased petitioner no.1.

(ii) Raghvendra Panjiyara, aged about 62 years, Gender-male, Son of Late Bhudeo Panjiyara, resident of village-Mojahidpur, Police Station- Amarpur, District-Banka. He is the second son of the deceased petitioner no.1.

(iii) Shashimani Devi, aged about 55 years, Daughter of Late Bhudeo Panjiyara, Wife of Anil Kumar Choudhary, resident of village- Surba, P.O- Motanga Police Station-Dhoriya, District-Banka. She is the youngest and only daughter of the deceased petitioner no.1.

(iv) Ashutosh Kumar, aged about 33 years, Gender-male, Son of Rajendra Panjiyara, resident of village- Mojahidpur, Police Station- Amarpur, District-Banka. He is the grandson of the deceased petitioner no.1.

(v) Krishna Kumari, aged about 37 years, Gender-Female, Daughter of Rajendra Panjiyara, resident of village-Mojahidpur, Police Station- Amarpur, District-Banka. She is the granddaughter of the deceased petitioner no. 1.

(vi) Abhishek Kumar, aged about 28 years, Gender-male, Son of Raghvendra Panjiyara, resident of village-Mojahidpur, Police Station- Amarpur, District-Banka. He



is the grandson of the deceased petitioner no.1.

(vii) Aditya Kumar, aged about 22 years, Gender-male, Son of Raghvendra Panjiyara, resident of village-Mojahidpur, Police Station- Amarpur, District-Banka. He is the grandson of the deceased petitioner no.1.

2. There is no objection from the other side.

3. Accordingly, I.A. No. 02 of 2021 is allowed. Let the name of Siya Devi @ Sita Devi be substituted by the heirs as recorded above.

4. Office to do the needful.

I.A. No. 01 of 2019

6. The aforesaid I.A. has been preferred by some of the villagers of the Muhahidpur, Amarpur Circle Office, Banka claiming themselves to be the necessary parties as the land in question is a 'Gairmajarua' recorded as 'Pokhar' (pond) used by the people of the area and as such, any outcome of the present petition will be having bearing on them.

7. In that background and when there is no objection from the other side, I.A. No. 01 of 2019 is allowed.

CWJC No. 18967 of 2018

8. Heard the parties.

9. The present application has been preferred for the



following relief(s):

(i) To issue a Writ in the nature of Certiorari for quashing the order dated 16.03.2018 passed by Learned Bihar Land Tribunal, Patna in BLT Case No.1028 of 2015, and consequent upon quashing of the same, issuance of Writ in the nature of Certiorari for quashing order dated 20.06.2015 whereby the Additional Collector, Banka has approved the cancellation of mutation of land bearing Khata no. 10, khesra no. 80/60, Rakba 3.80 acre, typed of land Gair majarua Aam Pokhar and also quashing the order dated 05.05.2015 whereby the Deputy Collector Land Reform, Banka has recommended for cancellation of mutation of the above said land and quashing the order dated 12.02.2014 in cancellation of mutation case no. 3/2014-15 whereby the Circle Officer, Amarpur has recommended against the petitioners.

(ii) To issue a Writ in the nature of Mandamus commanding the respondents to allow the petitioners to resume the concerned land.

(iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.

10. A counter affidavit has come on behalf of the



Circle Officer, Amarpur, Banka according to which, the present land in question is a Pokhar (water body) which cannot be settled to anyone. It was in the aforesaid circumstance that recommendation was made for the cancellation of 'Jamabandi' which has now been approved by the order in question by the Additional Collector and as such, it needs no interference.

11. It has been further averred in the counter affidavit that there is serious question of title over the disputed land which certainly can be adjudicated by a Competent Civil Court as there is claim and counter claim.

12. On the one hand, the petitioner claims it to be a 'Gairmajarua' land and on the other hand, the State insists that it is a water body and under no circumstance, can be settled to a private person much less the petitioner.

13. This Court is of the opinion that when there is serious dispute regarding the land/its nature, the State has rightly pointed out that the same can at best be adjudicated by a Competent Civil Court and cannot be decided in a writ jurisdiction.

14. The petitioner, at this stage, submits that they shall be filing a proper petition before a competent Civil Court but immediately after the disposal of the writ petition, the



respondents may resort to their dispossession and as such, considering that interim protection was granted earlier on 22.05.2019, till the filing of the petition before the Court, they shall be given protection after which they shall be taking up steps for getting interim relief from the Court in question.

15. In that background, the writ petition is disposed of allowing the petitioners to approach the competent Civil Court by filing a proper title suit in next four weeks.

16. Needless to add, once the said petition is filed, the parties shall be free to adduce evidence/produce documents in their respective support whereafter, the matter will be taken to its logical conclusion. The petitioners are granted interim protection for a limited period of six weeks whereafter they are duty-bound to approach the concerned Court for grant of relief.

17. The writ petition is disposed of with aforesaid observation.

(Rajiv Roy, J)

Vijay Singh/-

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