

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.962 of 2025

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Shambhu Singh @ Shambhu Narayan Singh Son of Late Rajdeo Singh
Resident of Village- Chaita, P.S. Pakridayal, District East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary Dept. of Revenue and Land Reforms, Govt. of Bihar.
2. The Collector, East Champaran.
3. The Additional Collector, (Revenue), East Champaran, Motihari.
4. The Deputy Collector Land Reforms, Pakridayal, District-East Champaran.
5. The Circle Officer, Pakridayal, East Champaran.

... .. Respondent/s

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Acts/Sections/Rules:

- *Section 9 of the Mutation Act 2011*
- *Section 9 of Bihar Tenancy Act, 2012*

Cases referred:

- *CWJC No.16269 of 2024 (Ram Naresh Roy and Others Vs. The State of Bihar)*
- *CWJC No.3336 of 2024 (Kumar Nawlesh @ Kumar Nawlesh Roy and Others Vs. The State of Bihar)*
- *CWJC No.19368 of 2021 (Rina Devi Vs. The State of Bihar)*

Writ Petition - filed for setting aside the notice whereby petitioner had been asked to show cause as to why the Jamabandi running in his name be not cancelled and for staying the further proceeding of the Jamabandi Cancellation Case.

Held - Section 9 of the B.T. Act, 2012 categorically says that the Additional Collector either suo-motu or on an application shall have power to make inquiry in respect of any Jamabandi which has been created in violation of any law for the time being in force or in contravention to any executive instruction issued in this behalf. It transpires to this Court that both are lacking in the notice and, therefore, the notice issued to the petitioner is hereby quashed. (Para 6)

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... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Asif Kalim, Advocate
For the Respondent/s : Mr. Government Pleader (11)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 28-01-2025

Heard Learned Counsel for the petitioner and
Learned Counsel for the State.

2. The present writ petition has been filed for the
following reliefs:-

“(a). For issuance of an
appropriate writ for setting aside the notice
dated 05.09.2024 issued in connection with
Jamabandi Cancellation No.42/2024-25
(Temp Filing No.17417 dated 05.09.2024)
from the office of Additional Collector, East
Champaran whereby petitioner is asked to
show cause as to why the Jamabandi



running in his name i.e., Jamabandi No.324 with respect of land pertaining to Mauza Chorma, Thana No.142, Khata No.105, Khesra No.09 be not cancelled.

(b) For issuance of an appropriate order staying the further proceeding of the Jamabandi Cancellation Case No.42/2024-25 (Temp Filing No.17417 dated 05.09.2024) pending before the Additional Collector, East Champaran.

(C) For any other relief and reliefs for which the petitioner is entitled in the opinion of this Hon'ble High Court."

3. Learned Counsel for the petitioner submits that the land, which is subject matter of the present case is as mentioned in the impugned notice i.e., Khata No.105, Plot No.9, area 70 Bigha 2 Katha 4 Dhur, recorded in the name of Zeerat Malik and Thikedar and the nature of land was shown as Bhit. As from the Khatiyani it is apparent that Malik of the said land used to be the Siraha Kothi and the same was recorded in the Khewat No.2. Accordingly, the land was in the personal occupation of the recorded Malik and they have full control over the land. Learned Counsel for the petitioner submits that notice under Section 9 for cancellation of Jamabandi has been issued. Counsel submits that for the same plot in which notice has been issued to total 11 persons in which petitioner has been figured at



serial No.4 has filed the present writ petition whereas the two persons of the same notice Susma Singh and Dr. Umesh Chandra Singh have filed writ petition bearing CWJC No.18863 of 2024 challenging the notice issued by Additional Collector under Section 9 for cancellation of Jamabandi has been entertained by this Court and since there was lacking of ingredients of Section 9 in the notice on this ground the said notice was said to be non-jurisdictional and it was quashed so far as petitioner is concerned. Counsel for the petitioner submits that the name of the petitioner in the said notice at serial No.4 the facts and circumstances of both the cases are absolutely identical. Hence, the present case is squarely covered by virtue of judgment dated 10.12.2024 passed in CWJC No.18863 of 2024.

4. Learned Counsel for the State submits that it transpires from the pleading that petitioner is one of the persons to whom notice in Jamabandi Cancellation Case No.42/2024-25 has been made. Learned Counsel further submits that the case of the present petitioner is identical to the case of CWJC No.18863 of 2024. He submits that appropriate order may be passed in this circumstance.

5. After hearing the parties and going through



the pleadings it transpires to this Court that in Section 9 of the Mutation Act 2011, there are series of decisions which has been annexed by this Court i.e., **CWJC No.16269 of 2024 (Ram Naresh Roy and Others Vs. The State of Bihar)** decided on 24.10.2024, **CWJC No.3336 of 2024 (Kumar Nawlesh @ Kumar Nawlesh Roy and Others Vs. The State of Bihar)** decided on 28.02.2024, **CWJC No.19368 of 2021 (Rina Devi Vs. The State of Bihar)** decided on 11.01.2024 and **CWJC No.19368 of 2021 (Rina Devi Vs. The State of Bihar)** decided on 11.01.2024, the operating part of these decisions are as follows:

CWJC No.16269 of 2024 (Ram Naresh Roy and Others Vs. The State of Bihar).

“7. After hearing the learned counsel for the parties, the Court, prima facie, is of the view that notice has been issued without recording the reason based on which Jamabandi cancellation case has been instituted as the notice does not record that as to which law or executive instruction were violated when initially the Jamabandi was created, as such, the notice appears to be vague. Accordingly, the notice contained in Memo No. 698 dated 29.08.2024 issued by the ADM, Darbhanga asking the



petitioners to appear before him in respect of Jamabandi Cancellation Case No. 173 of 2023-24 is hereby quashed.”

CWJC No.3336 of 2024 (Kumar Nawlesh @

Kumar Nawlesh Roy and Others Vs. The State of Bihar).

““10. From bare perusal of impugned notice, it is apparent that no ground has been mentioned as to why jamabandi cancellation proceeding has been initiated against the petitioner. It is settled law that the existence of an alternative remedy is not a bar for this Court to entertain a writ application. If an order is absolutely beyond jurisdiction, this Court must interfere with at the stage of issuance of notice itself, else it will cause serious prejudice. In this regard, reference can be made to a Supreme Court decision, reported in (1998) 8 S.C.C. (Whirlpool Corporation vs. Registrar of Trade Marks Mumbai and Others).

11. In the opinion of this Court, a notice under Section 9 of the Act, 2011 for cancellation of jamabandi must disclose specific prima facie opinion of the Additional



Collector that the jamabandi created in favour of a person is in violation of any law or is in contravention of any executive instruction. The notice apparently does not indicate as to which law has been violated and which instruction has been contravened while creating jamabandi in favour of the petitioner. The notice is completely vague, cryptic and does not disclose the ground, on which proceeding for cancellation of jamabandi has been initiated against the petitioner. It cannot be said to have issued in conformity with the provision contained in Section 9(1) of the Bihar Land Mutation Act, 2011 and as such, the same deserves to be set aside and is, accordingly, set aside.

12. In the facts and circumstances of the case, the Additional Collector, Patna is directed to issue a fresh show cause notice to the petitioner, disclosing the materials, which are the basis for him to form an opinion that jamabandi created in the name of the petitioner deserves to be cancelled. Such a notice must be issued within two



months from today, The Additional Collector, Patna shall proceed in the matter in accordance with law.

13. The writ petition is allowed with the aforesaid observation and direction."

8. In view of the said cryptic notice issued by the Additional Collector, Lakhisarai which is bereft of the details of the land, a fact even acknowledged by the State counsel, this Court also follows the same route as decided in the case of Reena Devi (supra).

9. The notice issued in Jamabandi Cancellation No. 140/2023-24, issued by the Additional Collector, Lakhisarai, dated 12.01.2024 (Annexure-P/1 to the writ petition) stands quashed."

CWJC No.19368 of 2021 (Rina Devi Vs. The State of Bihar):

"11. In the opinion of this Court, a notice under Section 9 of the Act, 2011 for cancellation of jamabandi must disclose specific prima facie opinion of the Additional Collector that the jamabandi created in favour of a person is in violation of any law or is in contravention of any executive instruction. The notice apparently does not indicate as to which law has been



violated and which instruction has been contravened while creating jamabandi in favour of the petitioner. The notice is completely vague, cryptic and does not disclose the ground, on which proceeding for cancellation of jamabandi has been initiated against the petitioner. It cannot be said to have issued in conformity with the provision contained in Section 9(1) of the Bihar Land Mutation Act, 2011 and as such, the same deserves to be set aside and is, accordingly, set aside.

12. In the facts and circumstances of the case, the Additional Collector, Patna is directed to issue a fresh show cause notice to the petitioner, disclosing the materials, which are the basis for him to form an opinion that jamabandi created in the name of the petitioner deserves to be cancelled. Such a notice must be issued within two months from today. The Additional Collector, Patna shall proceed in the matter in accordance with law.”

CWJC No.18863 of 2024 (Umesh Chander

Singh and Another Vs. The State of Bihar:

“8. In the show-cause notice, which is under-challenge, no ground has been assigned. The notice dated 05.09.2024 is quoted here-in-below:-



" न्यायालय अपर समाहर्ता-सह-अपर जिला
दंडाधिकारी पूर्वी चम्पारण, मोतिहारी।

Temp. Filing No-17417 Date-05-09-2024

जमाबंदी रद्दीकरण वाद सं०-42/24-25
सरकार द्वारा अंचलाधिकारी, पकड़ीदयाल बनाम
सुषमा सिंह एवं दस अन्य।

नोटिस बनाम.....

1. सुषमा सिंह, पति, डा० उमेश चन्द्र सिंह,
2. डा० उमेश चन्द्र सिंह, पिता ब्रज किशोर सिंह,
3. डा० उमेश चन्द्र सिंह, पिता ब्रज किशोर सिंह,
4. शम्भु नारायण सिंह, पिता राजदेव सिंह,
5. सुरज पासवान, पिता-लोरिक पासवान,
6. केशव कुमार सिंह, पिता- रामनरेश सिंह,
7. रघुवंश राय, पिता- बंती राय
8. मु० मीना कुंवर, पति- स्व० ध्रुप नारायण सिंह,
9. केशव कुमार सिंह, पिता- रामनरेश सिंह,
10. केशव कुमार सिंह, पिता- रामनरेश सिंह,
10. मदन मोहन सिंह, पिता-रामनरेश सिंह,

सभी ग्राम-चैता, थाना-पकड़ीदयाल।

इस नोटिस के माध्यम से आप सभी को सूचित किया जाता है कि अंचलाधिकारी, पकड़ीदयाल के द्वारा जमाबंदी रद्दीकरण हेतु प्रस्ताव सं०-03/24-25 समर्पित किया गया है, जिसमें मौजा-चोरमा, थाना नं०-142 अंतर्गत अनुमंडलीय व्यवहार न्यायालय हेतु चिन्हित जिरात मालिक कोठी की भूमि खाता सं०-105, खेसरा सं०-09 की विभिन्न रकबा के निमित्त संचालित जमाबंदी सं०-2639, 2640, 2653, 324, 1494, 2241, 2275, 1526, 1527, 1540 एवं 1541 को रद्द करने की अनुशंसा की गई है, जिसे सुनवाई हेतु ग्रहण कर ली गई है एवं सुनवाई हेतु अगली तिथि 12.09.2024 को निर्धारित की गई है।



अतः आपसभी को आदेश दिया जाता है कि सुनवाई हेतु निर्धारित तिथि 12.09.2024 को अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर लिखित बयान के साथ कागजी साक्ष्य प्रस्तुत करें कि क्यों नहीं समर्पित प्रस्ताव के आलोक में आपसभी के नाम संचालित जमाबंदी सं०— 2639, 2640, 2653, 324, 1494, 2241, 2275, 1526, 1527, 1540 एवं 1541 को रद्द कर दिया जाय।

इसे सख्त ताकिद जाने।

आज तारिख 05.09.2024 को मेरे हस्ताक्षर एवं न्यायालय के मुहर से जारी किया गया।

ह०/—

अपर समाहर्ता

—सह—

अपर जिला दण्डाधिकारी

पूर्वी चम्पारण, मोतिहारी।"

9. From bare perusal of impugned notice, it is apparent that no ground has been mentioned as to why jamabandi cancellation proceeding has been initiated against the petitioners. It is settled law that the existence of an alternative remedy is not a bar for this Court to entertain a writ application. If an order is absolutely beyond jurisdiction, this Court must interfere with at the stage of issuance of notice itself, else it will cause serious prejudice. In this regard, reference can be made to a Supreme Court decision, reported in (1998) 8 S.C.C. 1 (Whirlpool



***Corporation vs. Registrar of Trade Marks
Mumbai and Others).***

10. From bare perusal of notice it is crystal clear that there was nothing to show that prima facie opinion of Additional Collector has been reflected in the notice issued. The said notice also not clarifies as to which law has been violated and which instruction has been contravened while creating jamabandi in favour of the petitioners. The said notice does not reflect any specific opinion and same is vague, cryptic and does not reveal the ground on which proceeding for cancellation of jamabandi has been initiated against the petitioners. It cannot be said to have issued in conformity with the provision contained in Section 9(1) of the Bihar Land Mutation Act, 2011 and as such, the same is liable to be set aside.

11. Accordingly, notice issued in Jamabandi Cancellation Case No. 42/24-25 issued by the Additional Collector-cum-Additional District Magistrate, East Champaran, Motihari dated 05.09.2024 (Annexure-9 to the writ petition) stands quashed. ”

6. In the light of the submissions made, it transpires to this Court that Section 9 of the B.T. Act, 2012



categorically says that the Additional Collector either suomotu or on an application shall have power to make inquiry in respect of any Jamabandi which has been created in violation of any law for the time being in force or in contravention to any executive instruction issued in this behalf. It transpires to this Court that both are lacking in the notice and, therefore, the notice issued to the petitioner is hereby quashed.

7. Accordingly, the writ petition stands allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.01.2025
Transmission Date	NA

