

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 1060 of 2021

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Ram Lakhan Mandal, Son of Late Bauan Mandal @ Boven Mandal, Resident
of Village-Arga (Auranga Usuri), P.S.-Biraul, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Darbhanga District.
2. District Settlement Officer, Darbhanga.
3. Assistant Settlement Officer, Darbhanga.
4. District Panchayat Raj Officer, Darbhanga.
5. Sub Divisional Magistrate, Sub Division-Biraul, District-Darbhanga.
6. D.C.L.R., Sub Division-Biraul, District-Darbhanga.
7. Anchal Adhikari, Biraul Anchal, Darbhanga.
8. Block Development Officer, Biraul Block, Darbhanga.
9. Anchal Inspector, Biraul Anchal, Darbhanga.
10. Anchal Karmachari, Biraul Anchal, Darbhanga.
11. Mukhiya, Vill. Panchayat-Arga (Auranga Usuri), P.S. Biraul, Dist.-Darbhanga.
12. Panchayat Secretary, Village Panchayat-Arga Usuri, P.S. Biraul, District-Darbhanga.
13. Mahendra Mandal, Son of Late Thako Mandal, a resident of Village-Arga (Auranga Usuri), P.S. Biraul, District-Darbhanga.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rajni Kant Jha, Advocate
For the State : Mr. Ebadur Rehman Shakeb, AC to AAG-12
For the respondent no.11: Mr. Prafull Chandra Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 04-10-2024

The present writ petition has been filed for
restraining the respondents from demolishing the



house of the petitioner, as also preventing them from constructing the building of Panchayat Sarkar Bhawan on the *raiya* land of the petitioner.

2. The brief facts, according to the petitioner, are that a piece of land, admeasuring 13 katha, pertaining to old Khata No.217/new Khata No.866, Old Khesra No.1142/New Khesra No.1559, situated at Mauja-Arga Usuri, Tauzi No.6553, Thana No.86, Thana-Biroul, District-Darbhanga, was settled in favor of one Bilat Mandal, son of late Hiranman Mandal at yearly rent of Rs. 2/- in 1355 *fasli*, by delivering actual physical possession of the land and by issuance of rent receipt by the ex-landlords, namely, Abdul Mazeed and Abdul Gaffar. The said Bilat Mandal died, leaving behind his four sons, namely, Bathu Mandal, Boven Mandal, Baleshwar Mandal and Keshwar Mandal. The eldest son of the said deceased Bilat Mandal is stated to have become *Karta* of the joint family and used to pay rent to the ex-landlords. It is further stated that an amicable partition took place amongst the aforesaid four brothers and separate *jamabandies*



were created, including the one bearing Jamabandi No.494 in the name of one Boven Mandal, i.e. the father of the petitioner, who is also known as Bauan Mandal and he used to pay rent to the State of Bihar for which receipts were also being issued. Nonetheless, during revisional survey, new Khata No.866 was carved out of old Khata No.217 and old Khesra No.1142 was renumbered as new Khesra No.1559 to the prejudice of the *jamabandi* holders.

3. The learned Counsel for the petitioner has further stated that in the year 1997, when final publication was made, the land in question was illegally and wrongly recorded as 'Dhanhar' in the name of 'Anabad Bihar Sarkar' and in the remark column it was wrongly shown to be in the illegal possession of 'Kakhan Mandal, Makhan Mandal and Mahendra Mandal. The father of the petitioner had then assailed the renumbering of khesra and khata number by filing a case, bearing case no. 6565 of 1991, under Section 106 of the B.T. Act, before the learned Settlement Officer, Darbhanga on 10.06.1997. Thereafter, the petitioner had made



an application before the Circle Officer, Biraul, who requested the Sub-divisional Officer to initiate a proceeding under Section 144 of the Code of Criminal Procedure, 1973, leading to initiation of Case No.334 of 2020, however, on account of Covid-19 pandemic, the functioning of the Court was adversely impeded and the statutory period had expired, hence the said proceedings were closed.

4. The learned counsel for the petitioner has next contended by referring to Annexure-5 to the writ petition that rent receipt has been issued by the revenue officer in favor of the father of the petitioner, showing payment of rent for the period 2012-13, in connection with Jamabandi No.494 and Jamabandi No.494 still exists in the name of the father of the petitioner, hence it is submitted that the land in question is a *raiya* land, thus, the possession of the petitioner over the afore-said land should not be disturbed, without first cancelling the *jamabandi*, existing in the name of the father of the petitioner.



5. *Per contra*, the learned counsel for the respondent-State has submitted by referring to the counter affidavit filed by the Deputy Development Commissioner, Darbhanga and the District Magistrate, Darbhanga that an enquiry committee was constituted under the Chairmanship of the Sub-divisional Officer, Biraul, vide memo dated 26.10.2022, which conducted a spot enquiry, in presence of the petitioner and other villagers, by visiting the land in question, whereafter a report was submitted, vide memo dated 04.11.2022, wherein it has been stated that the land of Panchayat Sarkar Bhawan, situated at Mauja-Arga Usuri, Thana No.86, appertaining to Khata No.866, Khesra No.1559, admeasuring 96 decimals, is Anabad Bihar Sarkar category land in connection with which no objection certificate has been issued for the purposes of construction of Panchayat Sarkar Bhawan and the construction work has already been completed upto the plinth level. In the said report, it has also been stated that on Khesra No.1559, no house is situated and the land



of the petitioner, as informed by the villagers, is situated two kilometers away under Ward No.1, appertaining to Khesra No.826/3969. In fact, except the area where the Panchayat Sarkar Bhawan is being constructed, the rest of the land, appertaining to Khesra No.1559 is vacant. The villagers had also unanimously stated before the enquiry committee that the petitioner was at no point of time in possession of Khesra No.1559. At the time of inspection, son of Khakhan Mandal, namely, Gangaram Mandal and his daughter-in-law, namely, Bhulli Devi as also son of Makhan Mandal, namely, Ram Narayan Mandal and son of Mahendra Mandal, namely, Ram Sharan Mandal, were present at the spot (whose fathers have been shown to be illegal occupant of Khesra No.1559) and they conceded by saying that they have no objection to construction of Panchayat Sarkar Bhawan over Khesra No.1559 and to the said effect, affidavit has already been submitted by them in the past. In such view of the matter, the enquiry committee, comprising of the Circle



Officer, Biraul, the Deputy Collector Land Reforms, Biraul and the Sub-divisional Officer, Biraul, had submitted the enquiry report dated 04.11.2022, wherein they had come to the conclusion that the petitioner is not having any right, title and interest over the plot, appertaining to Khata No.866, Khesra No.1559 admeasuring 96 decimals, over which Panchayat Sarkar Bhawan is being constructed.

6. The learned counsel for the respondent-State has further submitted that the land in question is an anabad bihar sarkar category land, as has been depicted in the revisional survey khatian, which also shows that the illegal occupants of the land in question are someone else, i.e. Khakhan Mandal, Makhan Mandal and Mahendra Mandal, as is apparent from running page Nos. 82 and 89 of the brief. The learned counsel for the respondent-State has also submitted that rent/*malgujari* receipt, produced by the petitioner in the name of his father, i.e. Annexures 4 and 5 at pages no.17 and 18 to the writ petition, neither discloses the khata



number nor the khesra number and moreover, no such record of rights/rent/*malgujari* receipt is available under the concerned Circle Office.

7. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that no proof regarding the aforesaid land appertaining to Khata No.866, Khesra No.1559, Mauza Agar-Usuri, Thana No.86, Biraul, District- Darbhanga has been produced by the petitioner to show that the same is the raityati land of the petitioner. This Court finds that the petitioner has failed to satisfy this Court with regard to his right, title and interest in the aforesaid land in question, inasmuch as neither any cogent proof nor proof of creation of Jamabandi much less any admissible documents have been produced by the petitioner with regard to the same, whereas the Respondent-State has categorically stated that the aforesaid land in question is Anabad Bihar Sarkar category Land, as has been depicted in the revisional survey khatian, which also shows that the illegal occupants of the



land in question are someone else, i.e. Khakhan Mandal, Makhan Mandal and Mahendra Mandal, as is apparent from running page Nos. 82 and 89 of the brief. The solitary rent/malgujari receipt produced by the petitioner (Annexure-5 to the present writ petition) is also of the year 2012-13, however, the same does not depict/bear khata and khesra number, pertaining to which the same has been issued apart from the fact that rent receipt can by no stretch of imagination be a proof of the right, title and interest of the petitioner in the land in question.

8. It is a well settled law that mere issuance of rent receipts cannot create title to the land and can neither prove title nor possession with respect to the land in question. In this regard, reference be had to a judgment dated 15.12.2015, passed by the learned Division Bench of this Court in LPA No. 34 of 2015 (**State of Bihar & Ors. vs. Chandrabanshi Singh**) as also to a judgment dated 05.10.2005, rendered by a co-ordinate Bench of this Court, in the case of **Tripathy Kiran**



Nath Sharma vs. State of Bihar, reported in **(2005) 4 PLJR 670**. It would be gainful to refer to a recent judgment dated 10.05.2024, rendered by the learned Division Bench of this Court, in the case of **S. M. Ehteshamul Hasan Rehmani vs. the State of Bihar & Ors.** (LPA No. 1106 of 2023 and analogous case), paragraph no.19 whereof is reproduced herein below:-

“19. It is well settled that acceptance of rent by the State Government or issuing rent receipt does not create a title over the land. Thus, the claim of the appellants based on rent receipts does not make the case of the appellants better. Moreover, there is no estoppel against law. The State is not bound by the acts of its officers, if the same has been done by them outside their authority or power of the public authority to make it. Any action done unauthorisedly and without jurisdiction does not bind the State Government, is well settled law.”

9. It is equally a well settled law that any entry in revenue records or creation of Jamabandi does not confer title on a person and that mutation in revenue records neither creates nor extinguishes



title, nor does it have any presumptive value with regard to title. Even, mutation entry does not confer any right, title or interest in favor of a person and the same is only for fiscal purpose. Reference in this connection be had to the following judgments rendered by the Hon'ble Apex Court:-

(I) **(2007) 6 SCC 186** (Suraj Bhan & Ors vs. Financial Commissioner & Ors.)

(ii) **2021 SCC OnLine SC 802** (Jitendra Singh vs. State of Madhya Pradesh & Ors.), and

(iii) **2023 SCC OnLine SC 1483** (P. Kishore Kumar vs. Vittal K. Patkar)

10. In fact, this Court, during the course of hearing of the present petition, had asked the learned counsel for the petitioner, as to whether the petitioner is in possession of the documents pertaining to creation of *jamabandi* in question, to which the answer of the learned counsel for the petitioner is in the negative, and instead he has submitted that it might be with the respondents.

11. The record of rights/khatiyani issued by the Revenue/Land Reforms Department, Government



of Bihar (page nos. 88 and 89 of the brief) also shows Khesra No.1559, to be recorded in the name of Anabad Bihar Sarkar, however, the same shows Khakhan Mandal, Makhan Mandal and Mahendra Mandal to be illegal occupants and not the petitioner or his father. Nonetheless, it has been stated by the respondent-State in the counter affidavit filed by them that these people had given their no objection to the construction of Panchayat Sarkar Bhawan. This Court finds from the extract of revisional survey Khatian, annexed at page no. 19 of the writ petition that the plot appertaining to Khata No. 866, Khesra No.1559 is recorded in the name of 'Anabad Bihar Sarkar' and the petitioner has got absolutely nothing to do with it. As far as the prayer of the petitioner regarding restraining the respondents from demolishing his house situated over plot appertaining to Khesra No.1559 is concerned, the respondents have categorically stated in the counter affidavits filed by them that no house is situated over the said land in question. Thus, this Court finds that the petitioner has set up



a false and fabricated case, only with a view to usurp the government land in an illegal and fraudulent manner, without him being in possession of any cogent and legally tenable document in proof of his right, title and interest over the land in question. Thus, the present writ petition is devoid of any merit.

12. Having regard to the facts and circumstances of the case and for the foregoing reasons, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
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