

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16971 of 2021**

David Kumar, Son of late Umesh Prasad Yadav, Resident of Village - Halkara Chack, P.S.- Sultanganj, District- Bhagalpur, at present Village- Shivnandanpur, P.S.- Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Revenue and Land Reform Department, Government of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Bhagalpur.
4. The Additional Collector, Bhagalpur.
5. The Circle Officer, Sultanganj, Bhagalpur.
6. Nand Kumar Yadav, S/o late Suresh Yadav, R/o Village- Hemra, Halkara Chack (Nayagaon), P.S.- (Bath) Sultanganj, Bhagalpur.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Rakesh Kumar, Adv.  
For the State : Mr. Raj Kishore Roy, G.P.-18  
For the Respondent No.6: Mr. Rajendra Kumar Jain, Adv.

**CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY**

**C.A.V. JUDGMENT**

**Date : 10-04-2026**

Heard Mr. Rakesh Kumar, the learned Advocate for the petitioner and Mr. Rajendra Kumar Jai, the learned Advocate for respondent No. 6. The State has been represented by Mr. Raj Kishore Roy, GP-18.

2. The present writ application, under Articles 226 and 227 of the Constitution of India, has been preferred by the petitioner for setting aside the order dated 31.05.2021 passed by the Collector, Bhagalpur in Jamabandi Cancellation



Appeal Case No. 121/2019-20, whereby the order dated 21.05.2018 passed by the Additional Collector, Bhagalpur in Jamabandi Cancellation Case No. 07/2017-18 has been set aside.

**Factual Background :-**

3. The brief facts giving rise to the present writ application is to the effect that in the year 1969, there was a litigation between the grandfathers of the petitioner and respondent No. 6 with respect to a land, appertaining to Khata No. 65, Khesra No. 71, Area 17 decimal, falling within Mauza-Hemra, for which, a Title Suit, bearing No. 97 of 1969, was instituted. On contest, the judgment and decree was passed in favour of the grandfather of respondent No. 6, namely, Gullo Yadav, with a cost of Rs. 66.25/- paise.

4. In pursuance to the said judgment and decree, the grandfather of the petitioner, namely, Narain Yadav, had to pay the cost, which he could not pay as awarded in the decree to the decree-holder, on account of which said Gullo Yadav, the decree-holder of Title Suit No. 97 of 1969, filed an execution case, bearing No. 1399 of 1977, for realization of the cost of Rs. 66.25/- paise.

5. In the aforesaid execution case, the learned Execution Court has passed an *ex-parte* order on 19.04.1979



and auctioned sold the *Khatiyani* land of the petitioner, bearing Mauza-Hemra, Khata No. 65, Khesra No. 93, Area 0.16 decimal for a meager amount of Rs. 103/- only, which was purchased by the grandfather of respondent No. 6. Aforesaid Gullo Yadav, on the basis of such purchase, filed a mutation case, bearing No. 18-1981-82, and one *Jamabandi*, bearing No. 189, was created on 10.03.1982 for the aforesaid Khata No. 71, Khesra No. 93.

6. The grandfather of the petitioner came to know about the *ex-parte* order passed in Execution Case No. 1399/1977, upon which, he filed a miscellaneous case, bearing No. 18/1981, before the learned Munsif-II, Bhagalpur for recall of the *ex-parte* order as well as the order of auction of the land in question. The said Miscellaneous Case No. 18/1981 was dismissed on 25.08.1983, holding it to be time barred.

7. Assailing the aforesaid order dated 25.08.1983, one miscellaneous appeal, bearing No. 17/1983, was preferred by the grandfather of the petitioner before the learned District Judge, Bhagalpur. The said Miscellaneous Appeal No. 17/1983, on contest, was allowed on 29.07.1987 by the learned 1<sup>st</sup> Addl. District Judge, Bhagalpur, whereby the order dated



25.08.1983, passed in Miscellaneous Case No. 18/1981, was set aside. The learned Court also set aside the auction certificate of the land of the petitioner, bearing Mauza-Hemra, Khata No. 71, Kheshra No. 93, Area 0.16 decimal, which was auctioned by the learned Munsif-II, Bhagalpur in Execution Case No. 1399/1977 for realization of the cost of the Suit awarded in Title Suit No. 97/1969.

8. The aforesaid order dated 29.07.1987, passed in Miscellaneous Appeal No. 17/1983, was challenged before this Court *vide* Civil Revision No. 417 of 1990. The High Court by order dated 19.08.1993, not only confirmed the order passed in Miscellaneous Appeal No. 17 of 1983 but also settled the dispute with consent by enhancing the cost of Suit from Rs. 66.25 paise to Rs. 1500/-. In pursuance to the High Court's order, the enhanced cost of Suit was paid by the grandfather of the petitioner, namely, Narain Yadav and was duly accepted by the father of respondent No. 6, namely, Suresh Yadav.

9. One mutation case, bearing No. 26/1987-88, which was preferred by the father of the petitioner, was reviewed by the Circle Officer, Sultanganj on the basis of the order passed in Miscellaneous Appeal No. 17/1983 and



thereby, Jamabandi No. 71 in favour of late Narain Yadav was revived by order dated 18.03.1988 and since then, the rent has been paid by the grandfather of the petitioner.

10. In the meanwhile, the Title Execution Case No. 133/1977, which was preferred by the grandfather of respondent No. 6, namely, Gullo Yadav, was also dismissed taking into consideration the order passed by this Court in Civil Revision No. 417 of 1990 and the dispute was laid to rest.

11. Almost after 19 years, the father of respondent No. 6, namely, Suresh Yadav, after several years of the death of Gullo Yadav, his father, filed Jamabandi Cancellation Case No. 01/2015 before the Circle Officer, Sultanganj, which was ultimately forwarded to the Addl. Collector, Bhagalpur and a Jamabandi Case No. 07/2017-18 was registered. The Addl. Collector, by a detailed and reasoned order, dismissed the application for cancellation of *Jamabandi* made in favour of the forefathers of the petitioner by order dated 21.05.2018.

12. Being aggrieved by the aforesaid order, respondent No. 6 has filed Jamabandi Cancellation Appeal No. 121/2019-20 before the Collector, Bhagalpur. The Collector,



by order dated 31.05.2021, allowed the said appeal preferred by respondent No. 6, holding therein as follows:

“उल्लेखनीय है कि उभय पक्षों के बीच प्रश्नगत जमीन का स्वत्व को लेकर गंभीर मामला है, जिसका निराकरण सक्षम/व्यवहार न्यायालय के द्वारा ही किया जाना संभव है, जो कि इस न्यायालय के क्षेत्राधिकार से बाहर है विद्वान निम्न न्यायालय द्वारा इस बिन्दु पर कोई तथ्यात्मक निर्णय नहीं लिया गया है

अतः उक्त के समीक्षोपरान्त निश्कर्षतः विद्वान निम्न न्यायालय का आदेश दिनांक 21.05.18 को निरस्त करते हुए वर्तमान वाद की कार्रवाई समाप्त की जाती है।”

13. The petitioner, being the grandson of late Narain Yadav and aggrieved by such order passed by the Collector, Bhagalpur, has preferred the present writ application.

**SUBMISSIONS ON BEHALF OF THE PETITIONER :-**

14. Mr. Rakesh Kumar, the learned Advocate for the petitioner, submits that the Collector, Bhagalpur has exceeded his jurisdiction by ignoring the orders passed not only by a competent Civil Court, but also being approved by the High Court when the father of respondent No. 6 had approached this Court, initiating a proceeding under the Revisional Jurisdiction, being Civil Revision No. 417 of 1990. It has been submitted that the Collector ignored the fact that the execution case filed by the grandfather of respondent No.



6, namely, Gullo Yadav, was dismissed on 17.07.1996 and, therefore, his approaching for cancellation of *Jamabandi* almost after 19 years was, in itself, a mischief and, thus, the impugned order is perverse and illegal as also has been passed in defiance of the order passed by the High Court.

15. It has been submitted that the impugned order suffers from other illegalities also as while holding that “the dispute between the parties seems to be with regard to title and the same can only be settled through a competent Civil Court and the same is beyond the jurisdiction of this Court and thereby setting aside the previous orders passed by the Addl. Collector, Bhagalpur stating that the Addl. Collector had not taken any factual decision on the same”, is apparently against the record. The learned counsel for the petitioner, on this point, refers to the order dated 21.05.2018 passed by the Addl. Collector, Bhagalpur and drew the attention of this Court to the second-last paragraph of the same, which reads as hereunder:

“उपरोक्त तथ्यों एवं दाखिल कागजातों के अवलोकन के उपरांत यह न्यायालय इस निश्कर्ष पर पहुंचता है कि सुरेश यादव द्वारा घोखाघड़ी करते हुए दिवानी वाद सं०-97/69 में अपने पक्ष में डिक्री प्राप्त कर लिया। माननीय उच्च न्यायालय पटना के आदेश दिनांक-19.08.1993 के द्वारा यह स्पष्ट है कि वादी को 1500 रुपये की रकम प्राप्त कराकर केश को समाप्त कर



दिया गया है। जिसका उल्लेख दिवानी जारी वाद सं०-1399/77 में दिनांक-17.07.1996 को पारित आदेश में सुस्पष्ट कर दिया गया है कि वाद का कोई रकम बाकी नहीं रहा है तथा इसे खारिज कर दिया गया है। पूर्ण वसूली के आधार पर वाद को खारिज कर दिया गया है। इस स्थिति में डिक्री के आधार पर वादी के पक्ष में जमाबंदी 189 को यथावत रखना उचित प्रतीत नहीं होता है। इसे रद्द किया जाता है अंचल अधिकारी सुलतानगंज द्वारा विपक्षी को एल०पी०सी० निर्गत है जो दखल कब्जा का प्रमाण साबित करता है।”

16. It has been submitted that the Addl. Collector, Bhagalpur, after taking the entire factual background of the case and recording the previous findings and orders of the competent Civil Court, had come to a categorical finding that Jamabandi No. 189, created in favour of the applicant/Suresh Yadav, could not be sustained and was thereby being cancelled. The Addl. Collector had rejected the recommendations of the Circle Officer, Sultanganj after assessing the entire facts of the case including the orders passed by the Civil Court as well as the High Court.

17. The learned counsel, therefore, has submitted that relegating the parties to settle the dispute of mutation, stating it to be a dispute of title, is, in itself, illegal in the present facts and circumstances of the case as the title has already been decided by a competent Civil Court and the matter was laid to rest after the enhanced amount of Rs. 1500/-



was paid by the grandfather of the petitioner to the grandfather of respondent No. 6, as directed by the High Court.

18. It has further been submitted that it is settled law that long standing *Jamabandi* cannot be cancelled on vague claims. However, in the case in hand, it is evident from the facts that the *Jamabandi* created in favour of the grandfather of the petitioner was created after the disposal of Title Execution Case No. 1399/1977.

19. It has, thus, been prayed that the order impugned in the present petition is fit to be set aside.

**SUBMISSIONS ON BEHALF OF THE STATE :-**

20. Mr. Raj Kishore Roy, the learned GP-18, referring to the counter affidavit filed on behalf of respondent Nos. 3, 4 and 5, submits that the order passed by the Collector, Bhagalpur was legal, just, exhaustive and is a well reasoned & speaking order and, therefore, there is no illegality or infirmity in the said impugned order.

21. It has further been submitted that it could not be said that the Collector has not applied his mind and passed an order. It has further been submitted that the petitioner has directly approached the High Court without availing the remedy of filing revision petition before the Revisional Commissioner, as provided under the Bihar Land Mutation



Act, 2011 and, therefore, the present writ application is not maintainable in its form.

**SUBMISSIONS ON BEHALF OF RESPONDENT NO. 6 :-**

22. Mr. Rajendra Kumar Jain, the learned counsel appearing on behalf of respondent No. 6, while opposing the present petition, has submitted that the writ petition is incompetent as the statutory remedy of revision under Section 9 (7a) of the Bihar Land Mutation Act, 2011, challenging the *Jamabandi* Cancellation Appeal, dated 31.05.2021, should have been availed and, thereafter, the remedy lies before the Bihar Land Tribunal (B.L.T.) before approaching this Court.

23. It has been submitted that the land in question belongs to the ancestor of respondent No. 6, *viz.*, late Suresh Yadav, Son of Gullo Yadav, which was mutated in the name of Gullo Yadav *vide* Mutation Case No. 18/1981-82 and *Jamabandi* No. 189 was created in his name. It has been asserted that the land in question is in continuous possession of respondent No. 6, since the period of his grandfather/Gullo Yadav.

24. The learned counsel further submits that the land in question was wrongly mutated *vide* Mutation Case No. 26/87-88 and *Jamabandi* No. 71 was also wrongly created in the name of Narain Prasad Yadav, the grandfather of the



petitioner.

25. It has next been submitted that the Addl. Collector, Bhagalpur had erroneously refused to cancel Jamabandi No. 71 created in the name of the grandfather of the petitioner and without any legal ground, had gone on to cancel the standing Jamabandi No. 189 in favour of the father of respondent No. 6/Suresh Yadav, which was not even the subject matter which was forwarded by the Circle Officer, Sultanganj. It has been submitted that the Circle Officer had reported that it was respondent No. 6, who was in possession over the land in question, however the same was not taken into account. It has further been submitted that the Collector, Bhagalpur had also gone beyond his jurisdiction by holding that there is a serious dispute of title between the parties, though he submits that the Collector has rightly set aside the order passed by the Addl. Collector, Bhagalpur in Jamabandi Cancellation Appeal No. 121/2019-20.

26. The learned counsel for respondent No. 6 submits that the land in question is the ancestral property of respondent No. 6 having right, title and possession over the same on the basis of the decree passed in Title Suit No. 97/1969 and, therefore, the Addl. Collector, Bhagalpur had



exceeded its jurisdiction and had wrongly cancelled Jamabandi No. 189 standing in the name of the father of respondent No. 6, namely, Suresh Yadav. It has, therefore, been contended that there is no jurisdictional error in the impugned order passed by the Collector, Bhagalpur and it does not require any interference. It has also been submitted that it is a well settled law that the Revisional Courts has no jurisdiction to decide the question of title involved in a land dispute between the parties.

27. It has, thus, been submitted that the present writ application is devoid of any merit and is liable to be dismissed.

**CONSIDERATION :-**

28. After having heard the parties, the dispute involved in the present matter can be summarized as follows:

**(i) Whether the order passed by the Collector, Bhagalpur setting aside the order upholding the *Jamabandi* in favour of the petitioner is beyond jurisdiction?; and**

**(ii) Whether the title needs to be seen *prima facie* before coming to a finding with regard to cancellation/creation of a *Jamabandi*?**

29. The Bihar Land Mutation Act, 2011 provides for a summary proceeding for mutation of land records with the sole object of maintaining updated revenue entries. It is a



well settled principle that mutation proceeding do not confer title and are only for fiscal purposes. The Hon'ble Supreme Court, in various judicial pronouncements, has held that mutation entries neither create nor extinguish title and the same has been reiterated in the case of "**Suraj Bhan Vs. Financial Commissioner**, reported in (2007) 6 SCC 186".

30. From perusal of the impugned order, this Court has observed that the Collector, Bhagalpur has dealt with the factual aspect of the matter in detail and has noted the factum of creation of *Jamabandi* in favour of the petitioner and even the reasons of cancellation of *Jamabandi*, which was created in favour of respondent No. 6 and, thereafter, has come to a conclusion that the dispute between the parties relates to a dispute of title, which is beyond the jurisdiction of the Collector and it can only be decided by a competent Civil Court.

31. This Court further finds that the Collector, Bhagalpur has observed that the Addl. Collector, Bhagalpur had decided the matter with regard to the factual aspect of the matter and, therefore, the order passed by the Addl. Collector dated 21.05.2018 was set aside and the proceeding was closed. This Court, on perusal of the order passed by the Addl.



Collector in Jamabandi Cancellation Case No. 07/2017-18, which has been brought on record by way of Annexure-P/6 to the writ application, finds that the Addl. Collector has considered the entire facts of the case and taking into consideration the title, which had flown in favour of respondent No. 6 on account of auction purchase and thereby, the said order being set aside in a miscellaneous case by the Court of learned 1<sup>st</sup> Addl. District Judge, Bhagalpur and affirmed by the High Court and, therefore, the claim of title of the father of respondent No. 6 is wrong and, thus, he had gone on to hold that Jamabandi No. 71, in favour of the forefathers of the petitioner, was created and was directed to continue.

32. From the aforesaid order of the Addl. Collector, Bhagalpur, it is also evident that he had taken into account the fact that when the amount of Rs. 1500/- was paid by the grandfather of the petitioner to the father of respondent No. 6, the matter was settled for all times to come and, therefore, the very factum of claim over the same by the father of respondent No. 6, came to rest.

33. The other aspect of the matter passed by the Addl. Collector, Bhagalpur was that he had also directed for cancellation of Jamabandi No. 189, which also had continued



during the said period and has, thus, directed for cancellation of such *Jamabandi* standing in the name of the father of respondent No. 6.

34. This Court has also taken note of the fact that the application for cancellation of Jamabandi No. 71, standing in the name of the forefathers of the petitioner, was made after almost 19 years of the passing of the orders of the Civil Court and, therefore, it is in teeth of the well settled law that a long standing *Jamabandi* cannot be cancelled without taking recourse before a competent Civil Court.

35. At this juncture, this Court is of the view that the judgment rendered by this Court in the case of “*Maya Devi & Ors. Vs. The State of Bihar & Ors.*”, reported in (2014) 3 PLJR, 584” is relevant in the present facts and circumstances of the case.

36. In view of such settled position of law, this Court finds that not only the Collector, Bhagalpur has erred in observing that the Addl. Collector, Bhagalpur had not considered the factual background of the case, but has also committed an error that on one hand, he is relegating the parties to approach a competent Civil Court, holding it to be a dispute of title, and on the other hand, he has set aside the



order of the Addl. Collector without passing a positive order, either restoring the *Jamabandi* in favour of respondent No. 6 or cancellation of *Jamabandi* in favour of the forefathers of the petitioner.

37. This Court, on perusal of the records has found that the said land was a *Khatiyani* land belonging to the petitioner and the claim over the same was on account of auction purchase by the forefathers of respondent No. 6 and, therefore, once the said auction purchase was set aside and Rs. 1500/- was paid by the forefathers of the petitioner to the forefathers of respondent No. 6, question of title or possession over such land in favour of the forefathers of respondent No. 6 cannot arise.

38. This Court is unable to comprehend as to the fact that the Collector, Bhagalpur could not assess the facts of the case despite verbatim noting the submissions being made on behalf of the parties and as such, the impugned order can be said to be passed without application of judicious mind because of the fact that when a matter with respect to title has already been settled between the parties way-back in the year 1983 till the stage of the High Court and no further petition being pending before any other Court, cancelling the long



standing *Jamabandi* in favour of the petitioner, cannot be permitted in the eyes of law.

39. In view of the discussions made hereinabove, the impugned order dated 31.05.2021, referred to above, is set aside.

40. The Circle Officer, Sultanganj is directed to restore Jamabandi No. 71 with respect to the land in question in favour of the petitioner and any other *Jamabandi* standing in favour of respondent No. 6 or his forefathers should be cancelled with immediate effect.

41. The writ application stands allowed and disposed of accordingly.

42. Interlocutory application(s), if any, also stands disposed of accordingly.

**(Sourendra Pandey, J)**

Praveen-II/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | 01.04.2026 |
| Uploading Date    | 10.04.2026 |
| Transmission Date | N/A        |

