

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5950 of 2021

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BRAHMDEO SINGH @ BRAHMDEO PD SINGH @ BRAHMDEO PD.
VERMA S/o Late Mithu Singh R/o Vill- Karna, P.o. and P.s.- Parbatta, Dt.-
Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Deptt. of Revenue, Govt. of Bihar, Patna
2. The Additional Collector, Khagaria, at P.o. and P.s. and Distt.- Khagaria
3. The Land Acquisition Officer, Khagaria, at P.o. and P.s. and Distt.- Khagaria
4. The Anchaladhikari Parbatta, P.o. and P.s.- Parbatta, Distt.- Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Prasoon, Advocate
For the Respondent/s : Mr. AC to AG

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 23-03-2026

Heard the learned counsel for the parties.

2. The petitioners have invoked the inherent jurisdiction of this High Court under Article 226 of the Constitution of India praying for following reliefs:-

“i. The order dated 6.3.2020 passed by the Addl. Collector in jamabandi Raddikaran Vad Sankhya 30 of 2020 may kindly be set aside.

ii. It may kindly be held as the settlement by Ex- Land Lord was made much before 1.1.1946 and in return the name of the father of the petitioner was mentioned and the petitioner paid rent and obtained rent receipt from Ex-Land Lord before abolition of Zamindari and thereafter to the State so the petitioner is raiyat as per instruction issued by



Rajyapal in this connection.

iii. It may kindly be also held that under the facts and circumstances stated above State Officials have no power to start jamabandi cancellation case.

iv. The present jamabandi Raddikaran case has been started at the instance of local Anchaladhikari who has not got such power

V. Law is well settled that in a case where Raiyat is found in possession for long then proceeding u/s 4 (h) is without jurisdiction.

vi. Award amount may kindly paid to the petitioner.

vii. Any other relief which this Hon'ble court finds fit and reasonable may also be awarded to the petitioners and award amount should also be paid to the petitioner with due interest.”

3. Learned counsel for the petitioner submits that the petitioner is primarily aggrieved by the fact that by the impugned order dated 6.3.2020 passed by the Additional Collector, his long-standing *Jamabandi* has been cancelled. It has been submitted that the father of the petitioner had purchased the land through registered sale on 4.5.1938 from the duly settled *Raiyat* by ex-landlord and since then, father of the petitioner is in continuous possession over the said land and after his death the petitioner has been coming in possession of the same till date. It has further been submitted that prior to abolition of *zamindari*, rent was being paid to the ex-landlord and upon abolition the rent was being paid to



the State of Bihar till date and there had been no claim from any corner.

4. It has been contended by the learned counsel for the petitioner that the said proposal by the local Circle Officer is against the instructions given by the Governor of Bihar. He further submits that as the ex-landlord made settlement to a tenant and the tenant came in possession of the same, the land become *raiya* land of the tenant and the State cannot claim over such land. It has been asserted that in the present case, after settlement, the tenant sold the land to the father of the petitioner who is in possession till date. The learned counsel for the petitioner, referring to Annexure-4 series, has claimed that, considering the genuine and bona fide claim of the petitioner, the state authority was pleased to prepare the award in the name of the petitioner as the land was being acquired for an approach road. It has been pointed out that the District Land Acquisition Officer, Khagaria had earlier issued a letter to the Circle Officer, Parbatta to make a spot inquiry and submit a report so that the award amount could be paid and on the basis of the spot inquiry conducted by the Circle Officer through the Circle Inspector, the claim of the petitioner was found to be true and a recommendation was made for payment of the award in favor of the petitioner.

5. It has thus been contended that in such background,



the cancellation of the long-standing *Jamabandi* in the name of the father of the petitioner cannot be cancelled by one stroke of pen.

6. It has further been submitted that even if the State at such a belated stage claims the said land to belong to the State of Bihar, the same can be done only after approaching a competent court of civil jurisdiction. It has been submitted that the petitioner and his forefathers are undisputedly in possession of the land in question for over more than eighty years and therefore, such cancellation at the behest of the Circle Officer, Parbatta is illegal and not tenable in law.

7. Learned counsel for the petitioner relies upon an order passed by a coordinate Bench of this Court whereby in similar circumstances arising out of the land situated nearby to the petitioner, this Court has quashed the order of cancellation of *Jamabandi*. The learned counsel has referred to the last paragraph of the order dated 23.9.2022 passed in **CWJC No. 5056 of 2020** titled **Binod Kumar Singh and Ors. v. the State of Bihar and Ors.** which is reproduced hereunder:

“The State is given liberty to initiate appropriate proceeding for cancellation of Jamabandi in the Civil Court. If the State doesn't file any appropriate proceeding in the Civil Court within two months from today then the petitioner is entitled to the compensation amount along with interest. If the State files a title suit in the Civil Court and gets



an appropriate interim order with regard to the compensation amount then only the petitioner can be denied payment of the compensation otherwise he shall be entitled to the payment of compensation.”

8. Learned AC to AG, referring to the counter-affidavit, submits that there is no illegality in the impugned order, which has categorically noted that it is not clear as to how the *Jamabandi* number 117 was written as 117 LRD, all of a sudden. It has been submitted that merely because there is a *Jamabandi* in favor of the petitioner, which itself is doubtful, that does not entitle the petitioner to receive compensation as the title of a land belonging to the State of Bihar cannot be assumed without an order of a competent court. It has further been submitted by the learned A.C. to A.G. that in view of such finding, the *Jamabandi* in favor of the petitioner was created against the provisions of Section 6 of the Mutation Act.

9. He further submits that the Revenue Karamchari has reported that the land in question belongs to the State of Bihar having entry as *gairmazarua khas* and therefore, the present writ petition is misconceived and is fit to be dismissed.

10. Having heard the learned counsel for the petitioner and learned AC to AG for the State, one fact is undisputed that the *Jamabandi* was created way back and the petitioner is in possession of the said land for more than 80 years.



Further, on the basis of the arguments forwarded on behalf of the state, the very execution of sale deed in favour of the petitioner is being doubted and so is the creation of *Jamabandi*. From the perusal of the counter affidavit, this court does not find that the State has disputed the possession of the petitioner over such land. However, it has been submitted that the petitioner is not liable to be compensated for such land which is *Gairmazrua khas* belonging to the State of Bihar.

11. This court has taken note of the fact that had the land not been acquired, this fact would not come to fore and thereby the proceeding for cancellation of *Jamabandi* would not have been proceeded.

12. At this juncture, the order passed by this Court in the case of **Maya Devi and Others vs. The State of Bihar and Others**, reported in **(2014) 3 PLJR 584**, may be referred to where this Court had observed as follows:-

“It is now matter of record that proceeding for cancellation of Jamabandi leading to denial of compensation while acquiring the land is admitted. They submit that wherever there is a conflict of private and public interest, petitioners are ready and willing to give up their lands for public good provided proceedings are duly initiated and they are compensated and/or rehabilitated as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement



Act, 2013 which Act has come into force with effect from 01.01.2014 but surely the State cannot, by this indirect method, mala fide deny them the benefits which the law gives them.”

“Having considered the matter, the first thing to be noted here is that there is no dispute that the land in the cadastral survey, which is over a 100 years old was shown as Gair Mazarua Aam, Gair Mazarua Khas or Qaisar-e-Hind. An entry in the cadastral survey over 100 years old with regard to nature of land is not an entry for all times in future. It is an entry with regard to existing state of affairs then. It does not preclude the change of nature of the land through passage of time. It is not an entry which would hold good for all times to come and would bind all parties and not subject to change either by settlement or user. This, merely because in the cadastral survey a land is shown as Gair Mazarua Aam, Gair Mazarua Khas or Qaisar-e-Hind, is not a determinative factor today. It only shows the history.”

13. In view of the aforesaid observations made by this Court and also the aforesaid referred order dated 23-09-2020 passed in CWJC No. 5056 of 2020, the writ application is allowed. The impugned order dated 06.03.2020 cancelling the *jamabandi* of the petitioner is quashed. However, the State shall be at liberty to initiate an appropriate step for approaching the competent court of civil jurisdiction and if the State does not file any petition to such effect within two months from today, the petitioner shall be



entitled for the compensation amount along with interest. This Court would record that unless there is an interim order with regard to non-payment of compensation amount to the petitioner in the proceedings initiated by the State of Bihar, the petitioner shall not be denied payment of compensation.

14. The present application is allowed and disposed of with the aforesaid direction.

(Sourendra Pandey, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	26.03.2026.
Transmission Date	

