

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6418 of 2020

Chandradev Yadav S/o Late Radho Yadav Resident of Village- Arariya, P.O.-
Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub-Dvision-
Gogri, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Munger.
3. The Collector, Dist- Khagaria.
4. The Additional Collector, Land Reforms Department, Dist- Khagaria.
5. The Deputy Collector, Parbatta, District- Khagaria.
6. The Circle Officer, Parbatta, District- Khagaria.
7. Upendra Yadav S/o Late Sitaram Yadav Resident of Village- Arariya, P.O.- Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub-Division- Gogri, District- Khagaria.
- 8.1. Pana Devi Wife of Late Baleshwar Yadav Resident of Village- Arariya, P.O.- Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub Division- Gogri, District- Khagaria.
- 8.2. Anirudh Yadav Son of Late Baleshwar Yadav Resident of Village- Arariya, P.O.- Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub Division- Gogri, District- Khagaria.
- 8.3. Manirudh Yadav Son of Late Baleshwar Yadav Resident of Village- Arariya, P.O.- Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub Division- Gogri, District- Khagaria.
9. Krishna Murari Yadav S/o Late Botal Yadav Resident of Village- Arariya, P.O.- Arariya Balha, P.S.- Parbatta (Maraiya), Pargana- Farkiya, Sub-Division-Gogri, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Respondent/s : Mr.Raj Kishore Roy (GP18)
For Respondent No. 8.1 to 8.3 : Mr. Satish Chandra Mishra, Advocate
Md. Nurul Hoda, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
CAV JUDGMENT

Date : 02-08-2023

Heard Shri Rajesh kumar, learned counsel for the
petitioner, Shri Raj Kishore Roy, learned GP-18 for the State
and Md. Nurul Hoda, learned counsel for the private respondent



nos. 8.1 to 8.3.

2. This application has been filed for quashing of the order dated 24.08.2019 passed by learned Additional Collector , Khagaria in Jamabandi Correction Appeal Case No. 17 of 2018, by which the Additional Collector has affirmed the order dated 10.12.2017 passed by the D.C.L.R, Khagaria in Jamabandi Correction Case No.02 of 2016-17, whereby and whereunder he recommended the correction/cancellation of Jamabandi Nos.55BK, 243LRD and 749LRD, which were created in favour of the petitioner.

3. The short facts of this case, as stated in the writ petition, are that one Madho Mandal died leaving behind three sons, namely, Bhay Lal mandal, Budhu Mandal and Ritlal Mandal. Budhu Mandal had only one son, who died issueless and Ritlal Mandal died leaving behind his wife and a son, namely, Ragav Mandal. Bhay Lal Mandal after partition in the family, purchased lands through several registered deeds from one Nasib Mandar and Kalak Lal Mandal. It is alleged that Most. Aksi Devi, wife of late Ritlal Mandal (grand father of the petitioner) had given her entire property of land to Bhay Lal Yadav by executing registered deed of *Bajidawa* on 21.04.1932. Thereafter, Bhay Lal Mandal got his name mutated in *Sirista* of



ex-landlord and accordingly, rent receipts have also been issued in his favour. In the year 1965-66, Partition Suit No.188 of 1965-66 was filed by Ragho Yadav and Chhatu Yadav. The said partition suit was decided by the Circle Officer, Parbatta and accordingly, new *jamabandi* in favour of Ragho Yadav was created vide correction slip dated 23.12.1965. It is the case of the petitioner that all of a sudden in the year 2016 the private respondents filed Mutation Correction Case No.2 of 2016-17 before the D.C.L.R, Khagaria on the ground that on basis of forged and fabricated documents, Ragho Yadav got his name mutated in *serista* of ex-landlord. The D.C.L.R, Khagaria vide order dated 10.12.2017 recommended correction/cancellation of Jamabandi Nos.55BK, 243LRD and 749LRD, which were in favour of the petitioner. On the basis of the recommendation order of the learned D.C.L.R, Jamabandi Correction Appeal Case No.17 of 2018 was registered and placed before the Additional Collector, Khagaria for approval of order dated 10.12.2017 passed by the D.C.L.R, Khagaria. It is the case of the petitioner that the Additional Collector, Khagaria without issuing notice to the petitioner and without going through the objection filed by him, has approved the order dated 10.12.2017 passed by D.C.L.R, Khagaria. Hence, this writ petition.



4. Learned counsel for the petitioner submits that the order of the Additional Collector, Khagaria approving the recommendation of the D.C.L.R is without jurisdiction. He further submits that under Section 9 of the Mutation Act, 2011 the Additional Collector has power to make inquiries in respect of any *jamabandi* which has been created in violation of any law and after hearing the affected party, he may cancel the *jamabandi*. According to learned counsel for the petitioner, the private respondents never challenged the order of the Partition Suit dated 23.12.1965 and therefore, the same has attained its finally.

5. Learned counsel for the petitioner further submits that before the Additional Collector, Khagaria, the petitioner appeared and filed objection that under the Mutation Act, the D.C.L.R has no power to correct the *jamabandi* entry. He further submits that the Additional Collector, Khagaria without issuing any notice to the petitioner and without going through the objection filed by the petitioner has approved the order of the learned D.C.L.R, Khagaria recommending correction/cancellation of *jamabandi* created in favour of the petitioner, which is violative of the principles of natural justice.

6. I have heard considered the submissions of the



parties and perused the materials available on record.

7. In this case, the State and the respondent nos. 8.1 to 8.3 have filed their counter affidavits. Though the respondent nos. 8.1 to 8.3 have replied to the factual aspects of the matter but have not denied the statements made in paragraph nos. 18 and 20 of the writ petition that the petitioner was never heard before passing the impugned order dated 24.08.2019 approving the order of the D.C.L.R, Khagaria, in Mutation Correction Case No. 2 of 2016-17.

8. Any authority under law before passing any order prejudicial to a party must issue notice to the affected party and will pass the order only after appearance of the affected party and after hearing him. In the present case, from perusal of the order dated 24.08.2019 passed by the Additional Collector, Khagaria and also on going through the averments made by the petitioner, which has not been denied by the State or the private respondents, it is clear that the petitioner was never heard by Additional Collector, Khagaria before passing the impugned order dated 24.08.2019.

9. In my opinion, this kind of order is in complete violation of the principle of natural justice and the same cannot be sustained.



10. For the foregoing reasons, the impugned order dated 24.08.2019 passed by learned Additional Collector, Khagaria in Jamabandi Correction Appeal Case No. 17 of 2018 is hereby quashed in the interest of justice. The matter is remitted back to the learned Additional Collector, Khagaria to hear the *Jamabandi* Correction Appeal Case No.17 of 2018 afresh after issuing notice to the petitioner and the private respondents. While deciding the appeal, the Additional Collector, Khagaria will consider all the submissions of the parties and thereafter, pass a reasoned order in accordance with law.

11. With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

Harsh/

AFR/NAFR	NAFR
CAV DATE	02.08.2022
Uploading Date	02.08.2023

