

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 3350 of 2010

Md. Kasim Ali son of Late Khuda Bux, Resident of Village-
Chota Muri, P.S. Silli, P.O. Silli, Dist. Ranchi.

... .. **Petitioner**

Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Ranchi.
3. The Additional Collector, Ranchi.
4. The Land Reforms Deputy Collector, Ranchi.
5. Anchal Adhikari, Silli Anchal, P.O. & P.S. Silli, Dist, Ranchi.
6. Circle Inspector, Silli Anchal, P.O. & P.S. Silli, Dist. Ranchi
7. Halka Kramchari, Silli Anchal, P.O. & P.S. Silli, Dist, Ranchi.
8. Smt. Prabha wife of Sri Srishthidhar Mahto resident of village
& P.O. Muri, P.S. Silli, Dist. Ranchi.

... .. **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. B.V. Kumar, Advocate
For the Respondents : Mr. Ashok Kumar Sinha, Advocate

08/04.12.2018

Heard Mr. B.V. Kumar, counsel appearing on behalf of
the petitioner.

2. Heard Mr. Ashok Kumar Sinha, counsel appearing on
behalf of the respondents-State.

3. This writ petition has been filed for the following reliefs:

“For quashing the orders as contained in Letter No. 1077(II) dated 6.4.2010 (Annexure-8) passed by the respondent No. 3 and for quashing of the recommendation of the respondent No. 4 to the respondent No. 3 as contained in order dated 6.9.2009 (Annexure-7) in Misc. case No. 02/08 – 09/ T.R. 38/08-09 and the recommendation of respondent No. 5 to respondent No. 4 as contained in order dated 30.8.2008 (Annexure-6) for cancellation of Jamabandi of the Raiyati land of the petitioner in the purported exercise of power under Section 4(h) of the Bihar Land Reforms Act 1950 which is highly illegal, unwarranted and without jurisdiction and against the mandate of law”.

4. Counsel for the petitioner submits that the property involved in this case was settled in favour of Rambha Devi vide case no. 52 of 1965-66, which was sold in favour of the vender of the petitioner by virtue of registered sale deed dated

21.03.1984 and thereafter the property was sold to the petitioner vide registered sale deed dated 14.03.1991 and the property was also mutated in the name of the petitioner vide mutation case no. 138 R 27/91-92 and correction slip was also issued.

5. Counsel for the petitioner further submits that another lady namely Prabha Devi, claimed title over the property and upon inspection it was pointed out that in Register-II of the land records, the land was recorded in the name of Prabha Devi vide case no. 3 R 811/66 passed by the Circle Officer, Silli. He submits that said Prabha Devi had neither any authentic document of title nor had possession and offered before the respondent state authorities for giving the property for the purpose of construction of school building on the said land. By virtue of the impugned proceeding and order, the Jamabandi running in the name of the petitioner has been cancelled. Counsel for the petitioner also submits that long running Jamabandi standing in the name of the petitioner could have been cancelled and the only remedy was to file a title suit in the matter.

6. Counsel for the petitioner has relied upon the judgment passed by Hon'ble Supreme Court reported in (2003) 10 SCC 360 (Chattar Pal versus Mandir Thakurji and Others) to submit that it has been held that by the Hon'ble Supreme Court that the mutating authority is required to find out who was in lawful possession of the property on the date of considering the application. The counsel submits that in the instant case, admittedly, the petitioner is in possession of the property. He further relied upon a judgment passed by this Court reported in **2001 (1) JLJR 75** (Dilip Kumar Mahto vs. State of Bihar) to submit that this Hon'ble court has held that long running Jamabandi for last 20 years cannot be cancelled in a summary proceeding and recourse should be taken to civil court of competent jurisdiction. He also relies upon the judgment

passed by this court reported in **2003 (1) JLJR 95** (Chandra Shekhar Banerjee and others vs. State of Bihar and others) and also judgment passed by Patna High Court reported in **1979 BBCJ 605** (Jamaluddin Ahmad vs. S.D.O. Khagaria and others) and submits that mutation having been made in favour of the petitioner against which no appeal or revision was filed, therefore, Jamabandi cannot be cancelled.

7. Counsel appearing on behalf of the respondents on the other hand submits that upon inspection it was found that there are two parallel Jamabandi running in connection with the property involved in this case and further the basis of the claim of the petitioner is *Parcha* issued in case no. 52 of 1965-66 and also strong reliance was placed by the petitioner on the *parcha*, but the original *parcha* was never produced before the authorities who have passed the impugned order. He further submits that even the record of rights does not support the case of the petitioner.

8. Counsel for the respondents further submits that in connection with the same property, there cannot be two parallel Jamabandi and therefore one Jamabandi has been cancelled by the impugned order. If the petitioner is aggrieved, he may get his right, title, interest and possession declared through a competent court of civil jurisdiction.

9. After hearing counsel for the parties and after considering materials available on record, this court finds from the impugned order that the petitioner had based his claim on the basis of initial *Parcha* issued in case no. 52 of 1965-66 in favour of one Rambha Devi whose original was never produced before the authority. The authority found that there are parallel Jamabandi running in connection with the property involved in this case as another Jamabandi was created in favour of Prabha Devi in case no. 3 R 811/66 and her name was also mentioned in register II in the revenue records. In such circumstances, the

authority has ultimately cancelled the Jamabandi running in the name of the petitioner.

10. This court finds that the judgments which has been relied upon by the petitioner reported in 2003 (1) JLJR 95; 1979 BBCJ 605 and 2001 (1) JLJR 75 indicates that long running Jamabandi cannot be cancelled but in none of the cases there were instances of parallel Jamabandi running in connection with any property involved in these cases. The authority has no option but to decide as to which one of the Jamabandi has to continue. Accordingly, this court does not find any illegality or perversity in the impugned action or order passed by the respondent authorities and the same do not call for any interference by this court.

11. However, it is well settled that the orders passed by the revenue authorities or entries made in record of rights do not create or extinguish any title over the property. The petitioner claims to be in possession of the property and it is certainly open to the petitioner to get his right, title, interest and possession declared by filing a suit before the competent court of civil jurisdiction.

12. This writ petition is accordingly disposed of with the above observations.

(Anubha Rawat Choudhary, J.)

Binit/Mukul

N.A.F.R.