

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15484 of 2022

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Sunita Rani Sah, Wife of late Raghunath Sah, Resident of Village-
Haflaganj, P.O. Sirnia, P.S. Mufasil, Katihar, District- Katihar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar the Principal Secretary, Revenue and Land Reforms,
Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Purnea at Purnea.
4. The Collector, Katihar, District-Katihar.
5. The Additional Collector, Katihar, District-Katihar.
6. The Circle Officer, Katihar, District-Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Sr. Advocate Mr. Harsh Vardhan, Advocate Mr. Harsh Raj, Advocate Mr. Rahul Kumar, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19 Mr. Navnit Kumar, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 18-06-2026

Heard Mr. Raju Giri, learned Senior Counsel
assisted by Mr. Harsh Vardhan, learned counsel for the
petitioner and Mr. Rishi Raj Sinha, learned SC-19 assisted by
Mr. Navnit Kumar, learned AC to GP-18.

2. The petitioner has filed the present writ petition
praying for the following reliefs:-

*(I) To issue an appropriate
writ/order/ direction, directing the
respondents to produce the order (if any) by*



which the Jamabandi No. 2858 in regard to 25 decimal (0.25 acres) of land and Jamabandi No. 2859 in regard to 53 decimals (0.52 acres) of Khata no. 1406, plot no. 1263 Mauza Sirnia, Thana- Katihar, District-Katihar, of petitioner has been cancelled and then to issue a writ of certiorari for setting aside the order by which the said Jamabandi of the petitioner has been cancelled.

(II). To issue an appropriate writ / order / direction, in the nature of certiorari for quashing the entire proceeding of Misc. Case No. 14/2017-18, on the basis of which in purported exercise of power without issuing any Notice and without affording an opportunity of hearing to the petitioner, the Jamabandi of the petitioner has been cancelled.

(III) To issue an appropriate writ / order / direction, in the nature of mandamus directing the respondents to immediately stop the illegal construction being done on the lands of the petitioner and to allow the petitioner to continue with their peaceful possession on the lands in question.

(IV). To any other relief or reliefs for which the Petitioners are found to be entitled in the facts and circumstances of the case.



3. The present matter concerns with an order by which Jamabandi No. 2858 regarding 25 decimals of land and *jamabandi* No. 2859 regarding 53 decimal of land of Khata No. 1406, plot No 1263 Mauza Sirnia, Thana- Katihar, District- Katihar, which has been cancelled by the authorities.

4. It is the case of the petitioner that father of petitioner Bishwanath Sah purchased 25 decimal of land for valuable consideration from Sant Lal Paswan after obtaining permission from Deputy Collector, Katihar vide registered sale deed dated 18.12.1967 and similarly the mother of petitioner, Gulo Devi purchased 53 decimal of land from Sant Lal Paswan on the same date. It is thereafter that father and mother of petitioner while in possession of aforesaid land got it mutated in their names and *Jamabandi* No. 2858 and 2859 respectively were created in their name. Even the rent receipts were obtained by them. Thereafter, upon their death, Raghunath Sah, the petitioner as sole legal heir came into the possession of the land in question. It is asserted that the said land is in cultivable possession but when petitioner went to pay rent of the said land, *Karamchari* & Circle Inspector disclosed that *Jamabandi* of this land has been cancelled and some construction under government scheme is being done.



5. It is the further case of the petitioner that an application was preferred before DM, Katihar praying to stop construction since no notice was ever served upon him nor his land was acquired by the government. The Collector, Katihar passed in Misc. Case No. 14/2017-18 whereby *Jamabandi* No. 1626 and 1627 of the said land has been cancelled on the ground that settled land could not be transferred.

6. The learned counsel for the petitioner submitted that settlement of dead persons has been cancelled, which is illegal and valuable rights have been accrued for 55 years and no notice has been issued for hearing the parties prior to cancellation of *jamabandi*. It is also submitted that petitioner has obtained information under Right to Information Act that *jamabandi* of petitioner has been cancelled and the land belongs to the State of Bihar.

7. It is next submitted that under Section 9 of Bihar Mutation Act, 2011 only the Additional Collector is empowered to cancel *jamabandi* but the same was done by Collector which is illegal. Even the revision against the order of Collector was preferred before Divisional Commissioner, Purnea which is not maintainable as it is against the original order rather it should have been against the appellate order.



8. It is on the basis of Rejoinder on behalf of petitioner wherein it is submitted that settlement made have been cancelled by State government of a person, who is already dead and any such order passed is nullity in the eyes of law.

9. To buttress their arguments, the learned counsel for petitioner has relied on ***State of Bihar v Harendra Nath Tiwari* 2015(1) PLJR 606** to contend that any order of cancellation of *jamabandi* passed by Collector is an illegality as he had no jurisdiction and this power rests solely with Additional Collector. In fact, the *jamabandi* took place back in 1946 and the Act has come into force in 2011, valuable rights have accrued to parties and cannot be unsettled after generations.

10. The learned counsel has also relied on a judgment passed in the case of ***Abu Talib v State of Bihar*** reported in **2022 (3) BLJ 133** to contend that land given by *Bandobasti* to predecessors of petitioner cannot be cancelled as no order can be passed against dead persons. It is also held that at least an opportunity for hearing and notice must be served in regards to land in question and without any enquiry any claim made by government over the land shall be quashed.

11. It is the case of the respondents that Misc. Case



bearing No. 14/17-18 has been opened by Circle Officer, Katihar on the basis of application obtained from one Narayan Paswan, Mukhiya Gram Panchayat, Sirnia according to which plot No. 1263 covering area 2.53 acre of Khata No. 1406 had been settled to Santu Paswan (deceased). It is submitted that settlee was issueless and no rent had been paid since 1976 and settlee sold 1 acre out of the settled land 2.53 acre, whereafter purchaser had got his name mutated. It is next submitted that matter was put up before DCLR, Katihar recommending cancellation of settlement and after examining it was put up before SDO, Katihar. It is also submitted that proposal for cancellation of *jamabandi* was submitted before Additional collector as well as Collector, Katihar which was lawfully cancelled. It is lastly submitted that under Section 9 of the Act, Additional Collector is basic court regarding cancellation of *jamabandi* and the Collector is the Appellate authority.

12. The State through Supplementary Counter Affidavit on behalf of respondent no.4, DM Katihar, has contended as to why, without initiating the proceeding against petitioner, the *jamabandi* has been cancelled. It is submitted that in compliance with an order, a three member enquiry team was constituted vide letter No. 1963/ vidhi dated 17.09.2024 and a



joint report has been submitted vide letter No. 1643/Ra dated 28.09.2024. It is submitted that that original land settlement holder Santu Paswan died issueless and had sold 1 acre out of 2.53 acres land, which was in violation of government provisions as there is a bar on sale and other type of transfer of settled government land. It is also submitted that the then Rajaswa Karmachari, C.O. Katihar and ADM, Katihar recommended cancellation of settlement of land with Santu Paswan and also for cancellation of *Jamabandi* No. 1626 and 1627 upon which DM, Katihar passed the order accordingly and registered it in name of Bihar government. It is lastly submitted that *Jamabandi* No. 2858 and 2859 cancelled by CO, Katihar vide letter No. 3540 dated 03.10.2024 with attested copy of Misc. Case No. 15/17-18 (Ann-3).

13. The learned AC to GP-18 thus contends that since a settlee cannot further alienate the lands settled in his favour, therefore the *jamabandi* was cancelled after due expiry and hence no illegality has been committed.

14. Upon hearing the arguments forwarded by learned Senior Counsel, Mr. Raju Giri, who appears on behalf of the petitioner and learned SC-19 for the State, this Court finds that the order contained in Annexure-4 passed jointly by the



Additional Commissioner and the Collector cancelling the *jamabandi* of the vendors late Bishwanath Sah and late Gulo Devi, father and mother respectively of the husband of the petitioner.

15. From perusal of the said order, it would be evident that the said order had cancelled the original *jamabandi* nos. 1626 and 1627 which were opened in the named of vendors of late Bishwanath Sah and late Gulo Devi.

16. The said order nowhere contains any reference to the subsequent *jamabandi* opened in the name of late Bishwanath Sah and late Gulo Devi, however, in the RTI sought by the petitioner it has been informed that in pursuance to the order passed by the Collector in Cancellation Case No. 14 of 2017-18, the said *jamabandi* no. 2858 and 2859 are also been cancelled and the same has been recorded under the Government of Bihar.

17. This Court has noted the fact that the *jamabandi* created in favour of the father of late Raghunath Singh was created way back in the year 1987 and it had continued thereon and the petitioner was also submitting rent for the same, however, without giving any opportunity, the said cancellation had been carried out.



18. From perusal of Annexure-3, which has been brought through the supplementary affidavit filed on behalf of the District Magistrate, Katihar, it is also evident that the *jamabandi* nos. 2858 and 2859 in the name of the father and mother of late Raghunath Sah was cancelled by the Circle Officer, Katihar, which to the understanding of this Court could not have been done as the recommendation for cancellation was only with respect to *jamabandi* nos. 1626 and 1627.

19. It is a settled law that longstanding *jamabandi* cannot be cancelled.

20. 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*** and also in the case of **State of Bihar through Collector, Siwan vs. Harendra Nath Tiwary** reported in **2015 (1) PLJR 606**, this Court has way back decided that even if the title of the land owner is disputed by the State, the only remedy the State has is to file civil case and not to cancel *jamabandi* in a summary proceeding that too without giving notice.

21. One paragraph of the aforesaid judgment passed in the case of ***Maya Devi (Supra)*** is to be taken note of :-

“The result of these three progressive stages is that if the State wants the



petitioners' lands or the lands on which the petitioners have been residing for last 50 years, they must pay due compensation and take action in accordance with the provisions of the new Land Acquisition Act. If they intend to cancel the Jamabandi then it is for them to move the Civil Court for a declaration that the alleged settlement and/or Jamabandi is illegal and cannot be accepted and let the title of the State be so declared but till such time the dispute is resolved, the petitioners cannot be evicted by the State in any manner nor can just compensation for acquisition be denied."

22. In view of the aforesaid, the entire proceeding of Misc Case No. 14 of 2017-18 is hereby quashed.

23. It is directed that the *jamabandi* nos. 2858 and 2859 be restored. The State, however, shall be at liberty to pursue the matter before an appropriate forum if they are so advised.

24. Accordingly, the writ petition stands allowed.

(Sourendra Pandey, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	23.06.2026.
Transmission Date	

