In The Court of Commissioner, Saran Division, Chapra

Jamabandi Cancellation Revision case No. 316/2012
Prabhakar Das
Vrs.
The State of Bihar

ORDER

28.08.2015– The instant case has been filed pursuant to the direction given by the Hon'ble High Court while disposing of CWJC No. 18115 / 2012 on 05.11.2012.

The brief facts of the case are that the land in dispute measuring 0.08 decimal, appertaining to khata No. 535, khesra No. 937 is situated in Mouza Mirganj in the district of Gopalganj. The petitioner claims the land by virtue of the order of Mutation passed in favour of his father namely Sadhu Sharan Das. However, the Addl. Collector, Gopalganj vide letter No. 825 dt. 10.03.2008 forwarded a proposal, received from C.O. Uchakageon of Jamabandi cancellation case No. 01/07-08, to Collector, Gopalganj. Thereafter, the Collector, Gopalganj initiated a proceeding vide Jamabandi cancellation case No. 3/08 and after issuance of notice to the parties and on hearing the parties held that the said land belongs to Hathua Raj and recorded as Gair Mazuwa Malik which exist as Pokhra and was recorded as Sairat and accordingly impugned order was passed cancelling the Jamabandi. Aggrieved by the said order of Collector, Gopalganj, the petitioner approached the Hon'ble High Court by filing CWJC No. 18115/12 but the Hon'ble Court vide order dt. 05.11.2012 disposed of the matter with a direction to the petitioner to assail the said order before the appropriate authority under Bihar Land Mutation Act-2011. This led to filing of this case before this Court.

Heard the learned counsel for the parties.

The learned counsel for the petitioner submitted that Collector, Gopalganj has illegally cancelled the Jamabandi of the land in question which was already settled in the name of the petitioner's father and the petitioner is still in possession over the land. He further submitted that the learned Collector without going through the merit of the case and exceeding his jurisdiction and also without verifying the relevant documents and show cause submitted by the petitioner in the said case, wrongly and illegally passed the impugned order with mala fide intention. He further argued that the petitioner has been illegally dispossessed from the land in question whereas the Title Appeal No. 186/1973 is still pending in the competent Court of law. He also submitted that the learned Collector ought to have examined the report of the then Revenue Karmachari, Amin, C.I. and C.O. who submitted their report relating to land in question and declared that the land in question was settled in the name of the father of the petitioner and rent has also been fixed. He lastly submitted that the impugned order be set aside.

The learned Govt. Pleader while opposing the arguments forwarded by the petitioner's counsel strongly submitted that no land or tank and its **bhinda** over

which villagers have customary right could be settled by the Ex-landlord and in support of this plea he also referred to the reported decision on the point (AIR-1956 Pat Page-F.B) which is a leading case. He also submitted that the Jamabandi is created on the basis of alleged Nazarana receipts are wrong illegal and cancellation of such Jamabandi is legal, valid and operative. He lastly said that as the impugned order is just and proper there is no need of interference by this learned Court.

Considering the facts and circumstance of the case, material on records, respective arguments of the parties and on perusal of the impugned order, it seems to me that the learned Collector has dealt the matter in depth and has assigned appropriate reasons for his findings and he held that the existing jamabandi is doubtful as such he confirmed the recommendation of Jamabandi cancellation of C.O.,SDO and Addl. Collector and accordingly cancelled the said jamabandi. The learned counsel for the petitioner miserably failed to point out any apparent and specific infirmity in the impugned order. As such the impugned order is upheld and this revision is dismissed accordingly.

Dictated and Corrected by me.

29.8.15

Commissioner,
Saran Division, Chapra

29.8.15

Commissioner,
Saran Division, Chapra