

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13918 of 2014

CNR No. BRHC010615852014

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Mrs. Meira Kumar, wife of Mr. Manjul Kumar and Daughter of Late Smt. Indrani Devi and Late Hon'ble Jagjivan Ram, Former Deputy Prime Minister of India, Government of India. Presently residing at D-1029 New Friend's Colony, P.O. and P.S. New Friend's Colony, New Delhi- 110 025

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna
3. The Director Land Acquisition, Bihar, Patna, Collectorate, Patna
4. The District Magistrate, Patna, Collectorate, Patna
5. The Land Acquisition Officer, Patna, Collectorate, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sarvendra Kumar Verma, Adv. Mr. Jai Vardhan Narayan, Adv.
For the Respondent/s	:	Mr. Vinay Kirti Singh, G.A.-3

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV JUDGMENT

Date : 06-10-2026

This writ application is heard on remand by the Hon'ble Division Bench of this Court vide judgment dated 03.03.2005 passed in Letters Patent Appeal No. 309 of 2024 filed by the State of Bihar whereby the Hon'ble Appellate Court observed that proceedings under Section 4(h) of the Bihar Land Reforms Act, 1950 (hereinafter referred as 'B.L.R. Act') was concluded on 12.04.2023 holding the land in question to be a



Ghairmazarua Aam land, which has not yet been challenged. This fact was not taken into account by the learned Single Judge while disposing of the writ petition seeking compensation under the provision of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and further directed to relegate the case to the learned Single Judge to revisit the judgment and operation of the judgment dated 21.12.2023 passed in C.W.J.C. No. 13918 of 2014 was stayed.

2. This case has come before this Court by the order of Hon'ble the Chief Justice.

3. The present writ application has been filed for the payment of compensation under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as "the Act of 2013") along with interest @ 9 per cent per annum with regard to 18 Kathas 10 Dhurs land (equivalent to 0.56 acres) appertaining to Khata No. 769, Plot No. 1220, Revenue Thana -Phulwari, Mauza- Mainpura, P.S.- Shashtri Nagar, District- Patna which was acquired by the State Government under Bengal Embankment Act, 1882 (Annexure-D) in Land Acquisition Case No. 50 of 1975-76 for the



construction of *Nala* (drain) in the year 1976 itself. The said construction has been paid, but no compensation has been made either to the original owner, namely, Smt. Indrani Devi, who died on 14.04.2002 or to the petitioner. During the pendency of the present writ application, the Collector, Patna passed order dated 12.04.2023 in Jamabandi Cancellation Case No. 1 of 2012-13 whereby Jamabandi of the petitioner has been cancelled after initiation of proceeding under Section 4(h) of the B.L.R. Act without issuance of any prior notice or affording opportunity of hearing to the petitioner. The Jamabandis of the petitioner as well as mother of the petitioner and others have been cancelled and further direction has been given to the Circle Officer, Patna Sadar, for removal of encroachment from the land, in question, and S.D.O. Patna Sadar has been directed to take needful action against the concerned persons who have created illegal Jamabandis over the land in question.

4. For challenging the aforesaid order dated 12.04.2023, I.A. No. 1 of 2025 was filed for amendment of the following reliefs:-

- (i) *Set aside and quash the impugned order dated 12.04.2023 passed by the Collector, Patna in Jamabandi Cancellation Case No. 01/2012-13, as being arbitrary, illegal,*



without jurisdiction, and in violation of the binding judgment dated 21.12.2023 passed by this Hon'ble Court in CWJC No. 13918 of 2014.

- (ii) Declare that the proceedings under Section 4(h) of the Bihar Land Reforms Act, 1950 stand conclusively terminated in view of the Three Member Committee's report dated 11.08.2016 and the Collector's own withdrawal order dated 12.03.2015;*
- (iii) Direct the respondents to forthwith process and release compensation to the petitioner under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in accordance with the judgment dated 21.12.2023 and the law laid down in Indore Development Authority v. Manoharlal & Ors. [(2020) 8 SCC 129];*
- (iv) Restrain the respondents from initiating or continuing any further proceedings under Section 4(h) of the Bihar Land Reforms Act, 1950 in respect of the petitioner's land, in view of the judicial and administrative findings already on record;*
- (v) Pass appropriate directions to ensure that the petitioner's Jamabandi remains undisturbed and is duly reflected in revenue records, with consequential mutation and rent acceptance;*



(vi) Award costs of this application in favour of the petitioner; and

(vii) Pass such other or further orders as may be deemed fit and proper in the interest of justice, equity, and good conscience.

5. The said interlocutory application was allowed on 17.08.2026.

6. In order to gauge the matter in its correct perspective, it is necessary to briefly restate what the case of the petitioner is in the writ application.

7. The case of the petitioner is that the ex-landlord settled the land in question along with other lands in the year 1941 to one Gauri Charan Singh, who came in actual physical possession of the same. On his death, by virtue of succession and inheritance, his two sons, namely, Raj Nath Singh and Dinnath Singh continued in actual physical possession of the land. Their names were mutated and accordingly their names were entered in Register-II of the Patna Sadar Anchal and on payment of rents, receipts were issued by the State of Bihar. Both the sons of Gauri Charan Singh transferred the land in question to one Satyadeo Prasad Singh, who was predecessor-in-interest of Indrani Devi (mother of the petitioner), through registered sale deed dated 20.02.1963 for valuable



consideration. The name of Satya Dev Prasad Singh was also mutated and entries were made in Register-II in his name. In the year 1965, Satya Dev Prasad Singh sold the land to Smt. Indrani Devi (mother of the petitioner) through registered sale deed admeasuring an area of 4.5 Bighas. Her name was duly mutated and Jamabandi No. 1789 was created in her favour. Since then, she has been paying rent to the State of Bihar.

8. It is further case of the petitioner that on 07.05.1985, the then Collector Patna, cancelled Jamabandi of Smt. Indrani Devi and 14 other individuals in R.M. Case No. 06 of 1982-83 on the ground that the land, in question, has been recorded as *Ghairmazarua* Aam in the Khatiyani and revenue records of the Government. The order of cancellation of Jamabandi was challenged by Smt. Indrani Devi (the mother of the petitioner) in C.W.J.C. No. 4071 of 1986 and also one Harendra Kumar challenged the cancellation of his Jamabandi by filing a case bearing C.W.J.C. No. 4685 of 1985. Both the writ applications were heard together. This Court vide order dated 18.11.1994, allowed both the writ applications and quashed the order of the Collector dated 07.05.1985 on the ground that Jamabandi could only be cancelled by initiating proceeding under Section 4(h) of the B.L.R. Act. The aforesaid



order dated 18.11.1994 has not been challenged till date. Consequently, the Jamabandis of all the affected persons vide order dated 18.11.1994 were restored and rent receipts were issued in their names. After the death of Smt. Indrani Devi, the name of the petitioner was mutated in her name on the basis of registered Will executed by Smt. Indrani Devi in favour of the petitioner and accordingly, rent receipts were also issued in her name pursuant to the order passed in Mutation Case No. 479/1/2009-10 dated 18.10.2009. However, the Deputy Collector, Land Reforms Patna Sadar issued a notice dated 02.02.2013 purported to be under Section 4(h) of the B.L.R. Act to the petitioner and others persons mentioning therein that the proceedings vide Jamabandi Case No. 1 of 2011-12 has been initiated by the Circle Officer, Patna Sadar. Dev Raj Thakur, the Power of Attorney Holder of Harendra Kumar, had filed a contempt petition vide M.J.C. No. 994 of 2013 challenging the initiation of proceedings under Section 4(h) of the B.L.R. Act. In the said contempt petition, this Court directed the State Government to file its show cause. Despite the order of filing of show cause, the Collector Patna cancelled the Jamabandi of said Harendra Kumar vide order dated 04.11.2013. This Court directed the Collector, Patna to file a show cause as to why he



be not held guilty of contempt of court for violating the order of this Court. Thereafter, the Collector Patna recalled his order and this Court disposed of the contempt petition on 18.12.2013 with a liberty to the Collector, Patna to proceed with the proceeding in accordance with law and also directed him that while dealing with the said proceedings, he will bear in mind the contention of the petitioner that he has purchased the land in question, for which settlement is sought to be cancelled vide sale deed of the year 1961 (correct year 1963) from the settlee who obtained settlement of the land in question in the year 1943 and in the light of the aforesaid case, the aforesaid proceedings under Section 4(h) of the B.L.R. Act is not maintainable. The petitioner also filed a contempt application bearing M.J.C. No. 2265 of 2013 which was disposed of on 02.01.2014 in the light of the order dated 18.12.2013 passed in M.J.C. No. 994 of 2013. Thereafter, the petitioner submitted a representation dated 13.06.2014 to the District Land Acquisition Officer, Patna in L.A. Case No. 50 of 1975-76 for payment of compensation along with admissible interest but the District Land Acquisition Officer sat tight over the matter and failed to take any action in accordance with law. Therefore, the petitioner was constrained to file this writ application.



9. The Collector Patna once again issued notice dated 23.01.2015 under Section 4(h) of the B.L.R. Act during the pendency of the writ application to the petitioner and 33 others persons. A similar notice under Section 4(h) of the B.L.R. Act was also issued to Harendra Kumar by the Collector on 04.02.2015. Against the said notice, he filed M.J.C. No. 429 of 2015. After issuance of notice on 23.01.2015 under Section 4(h) of the B.L.R. Act, the petitioner filed a contempt petition bearing M.J.C. No. 383 of 2015. After hearing the parties, this Court vide order dated 11.03.2015 directed the State Government to ascertain the date of settlement made by the ex-landlord in favour of predecessor-in-interest of the petitioner and further observed that if the initial settlement itself was made prior to 01.01.1946 i.e. in the year 1941, no proceeding under Section 4(h) of the B.L.R. Act can be initiated for cancellation of the said settlement. In response to the order of this Court, the Collector constituted a Three-Man committee to ascertain the date on which the settlement was made. This Court vide order dated 25.03.2015 passed in M.J.C. No. 383 of 2015 directed the Collector, Patna to appear personally in the Court as in the opinion of the Court, the action of the Collector amounts to overreaching the orders passed by this Court.



10. Being aggrieved by the aforesaid order, the Collector, Patna, preferred an appeal bearing L.P.A. No. 601 of 2015, wherein, the Hon'ble Division Bench of this Court was pleased to allow the appeal and set aside the order dated 25.03.2015 passed by the learned Single Bench in M.J.C. No. 383 of 2015 on 22.04.2015 and permitted the respondents to pursue the remedy vis-a-vis the proceeding under Section 4(h) of the B.L.R. Act depending upon the stage thereof.

11. Another M.J.C. No. 429 of 2015 was also filed by Harendra Kumar whereby this Court vide order dated 16.07.2015 directed the Collector, Patna to clarify the timeline required to conclude the proceedings initiated way back on 07.05.1985.

12. Pursuant to order of this Court dated 16.07.2015, the Collector Patna had filed supplementary show cause stating therein that it is not possible at this stage to disclose the date of settlement made in favour of first vendor of the petitioner because such date can only be ascertained after conclusion of the inquiry. In this matter, he has constituted Three-Man Committee for ascertaining the date on which the settlement was made in favour of the original vendor who subsequently transferred to the predecessor-in-interest of the petitioner and



said committee is required to examine the documents available in his office along with documents submitted by all the 34 persons including the petitioner separately for which at least 6 months time is required. Considering the request of the Collector, the contempt application was accordingly disposed of with the observation that although the liberty is being granted to Collector to proceed with the inquiry, it would be open to the petitioner to bring to the attention of the Division Bench that such liberty tantamounts to trampling with his rights and title over the land in question, at least under cloud from 1985 when the settlement was cancelled as he is being harassed by the Collector, Patna and his subordinate from then.

13. The Three-Man Committee as constituted by the Collector, Patna submitted its report on 11.08.2016 concluding that proceeding under Section 4(h) of the B.L.R. Act could not be initiated as the *Patta* is of the year 1941. The Committee further opined that cancellation of Jamabandi warranted could only be undertaken through proceeding under Section 9 of the Bihar Mutation Act, 2011. However, prior to initiating any such proceedings, it would be necessary to file an appeal against the judgment dated 18.11.1994 passed in C.W.J.C. No. 4685 of 1985 and C.W.J.C. No. 4071 of 1986 and obtain permission



from this Court as those judgments had categorically held that Jamabandi could only be cancelled through proceedings under Section 4(h) of the B.L.R. Act and not otherwise.

14. It is pertinent to mention that during the pendency of the instant writ application, the Collector, Patna passed order dated 12.04.2023 in Jamabandi Cancellation Case No. 1 of 2012-13 whereby the Jamabandi standing in the name of the petitioner was cancelled. The said order of the Collector has been challenged in the present proceedings. The learned counsel for the petitioner vehemently submitted that the order dated 12.04.2023 was passed without issuance of any prior notice or affording opportunity of hearing to the petitioner, in gross violation of the principle of natural justice. It is further contended that the impugned order dated 12.04.2023 has been passed unilaterally without any fresh notice or recorded satisfaction of the Collector and stands vitiated for want of procedural propriety and judicial compliance. Learned counsel for the petitioner submits that Three-Man Committee which had unequivocally concluded in its report dated 11.08.2016 that *Patta* was issued in the year 1941, thereby excluded the applicability of Section 4(h) of the B.L.R. Act. There is no record to show that the original *Patta* was issued by the ex-



landlord in favour of Gauri Charan Singh after 01.01.1946. The impugned order dated 12.04.2023 is *ex facie* illegal, arbitrary and without jurisdiction. The learned Single Judge allowed the writ petition on 21.12.2023 holding the entitlement of the compensation under the Act of 2013 for the land acquired in the Land Acquisition Case No. 50 of 1975-76. The learned Single Judge affirmed that the petitioner's Jamabandi was lawfully created pursuant to settlement in favour of the predecessor-in-interest and upheld the order dated 18.11.1994 and further submitted that in view of the findings of the Three-Man Committee, the proceedings under Section 4(h) of the B.L.R. Act were inapplicable. The said Committee was itself constituted by Collector, Patna. In this regard, reliance has been placed in the case of ***Indore Development Authority vs. Manoharlal & Ors.*** reported in ***(2020) 8 SCC 129***, in which the Hon'ble Apex Court interpreted Section 24(2) of the Act of 2013 and held that if payment of compensation is prolonged, the petitioner would be entitled relief under the new Act. It is further submitted that the State of Bihar preferred an appeal bearing Letters Patent Appeal No. 309 of 2024 against the judgment dated 21.12.2023 passed by learned Single Judge in the present case earlier. The Division Bench disposed of the



appeal filed by the State of Bihar challenging the order dated 21.12.2023 and categorically held that the learned Single Judge had relied on settlement of the year 1941 and findings of the Three-Man Committee and the subsequent order dated 12.04.2023 under challenge passed by the Collector declaring the land as *Ghairmazaura Aam* had not been considered. Therefore, the Hon'ble Division Bench relegated the matter to the learned Single Judge and operation of the judgment dated 21.12.2023 was stayed till further adjudication. The Collector, Patna, without considering the report of the Three-Man Committee which was constituted by him, and without assigning any reason for deferring the report of the Three-Man Committee has cancelled the Jamabandi. Lastly, it has been argued by the counsel for the petitioner that petitioner's Jamabandi was lawfully created pursuant to the settlement in favour of the predecessor-in-interest of the petitioner. It is also apparent from the record of the case that the petitioner's title is supported by registered sale deed of 1965, Mutation entries and Jamabandi records. These documents correctly establish her lawful status as land holder which cannot be nullified without due process of statutory inquiry though the inquiry made by Three-Man Committee has supported the case of the petitioner.



It is further submitted that Section 4(h) of the B.L.R. Act is inapplicable to pre 1946 settlement. Cancellation of Jamabandi must follow legal procedure and cannot be passed on parties assumption. Reliance has been placed in the case of *Yadunandan Singh Vs. State of Bihar & Ors.* reported in *(2016) 3 PLJR 237*. It is vehemently submitted that once the factual aspect of settlement, in question, has been established that the settlement has been made in favour of predecessor-in-interest in the year 1941 by the Committee constituted by the Collector, Patna, the Collector has no jurisdiction to pass order for cancellation of Jamabandi of the petitioner in view of Section 4(h) of the B.L.R. Act. Hence the petitioner is entitled to compensation under the Act of 2013. It is further submitted that in view of *Indore Development Authority (supra)* and further in the facts and circumstances of the case, the order dated 12.04.2023 passed by the Collector be quashed and Jamabandi of the petitioner be restored forthwith and the authorities be directed to pay compensation with statutory interest within a reasonable time.

15. Per contra, learned counsel for the State submitted that the land, in question, mentioned in the Cadastral Survey Khatiyan is *Ghairmazarua Aam* land "Pichali Nadi" which was



acquired for construction of storm drainage system after due process of law in L.A. Case No. 50 of 1975 and an award was prepared on 31.03.1981. The claim of the petitioner has been considered by the Additional District Land Acquisition Officer, Patna in L.A. Case No. 50 of 1975-76 which had been rejected on 02.01.1981 on the basis of Letter No. 6497 dated 07.10.1971 issued by the Revenue and Land Reforms Department, Government of Bihar. According to Letter dated 07.10.1971, it is required that settlement of *Ghairmazarua Aam* land has to be approved by the State of Bihar for which the payment of compensation amount is to be paid. The Additional District Land Acquisition Officer after considering all the relevant facts and materials, has held that the settlement of the land, in question, has not been done in favour of the petitioner or her mother. Even those persons from whom they had purchased the land have got no right over the land in question. The land, in question is *Pichali Nadi* and at present, it is in the form of drain which is for public use / purpose. Therefore, all the claims made with regard to the said land has been rejected vide order dated 02.01.1981 passed by the learned Additional District Land Acquisition Officer, Patna.

16. It is further submitted that the land under Mauza



Mainpura, Thana No. 2, Circle & P.S.-Phulwari was acquired vide Memo No. 203 dated 28.02.1976 made under Section 25 of the Bengal Embankment Act, 1882. The Petitioner or her mother has not submitted any documents in support of settlement made by the ex-landlord to their predecessor-in-interest before concerned authority and consequently, the Collector, Patna cancelled the Jamabandi No. 1789 created in favour of the mother of the petitioner vide order dated 07.05.1985. However, the said order was set aside by this Court on 18.11.1994 passed in C.W.J.C. No. 4071 of 1986. The Hon'ble Court has held that Jamabandi once created can be cancelled only after initiation of a proceedings under Section 4(h) of the B.L.R. Act and not otherwise. Accordingly, the Jamabandi of the mother was restored. Thereafter, the Deputy Collector, Land Reforms issued notice dated 02.02.2013 under Section 4(h) of the B.L.R. Act to the petitioner and others persons. One Raj Thakur, Power of Attorney Holder of Harendra Kumar had filed a contempt application (M.J.C. No. 994 of 2013) which was disposed of on 18.12.2013 by a Bench of this Court wherein the Collector, Patna was given liberty to proceed with the proceeding under Section 4(h) of the B.L.R. Act in accordance with law. It is further submitted that the petitioner also filed contempt petition



bearing M.J.C. No. 2265 of 2013 which was also disposed of in terms of order passed in M.J.C. No. 994 of 2013. It is further submitted that the Collector, Patna had constituted a Three-Man Committee on 12.03.2015 (Annexure-B) for inquiry of the settlement made in the year 1941 to the original settlee, namely, Gauri Charan Singh, who is predecessor-in-interest of the mother of the petitioner. Any decision to vitiate the proceeding under Section 4(h) of the B.L.R. Act in Jamabandi Cancellation Case No. 1 of 2012-13 shall be taken after being satisfied with the report submitted by the Committee. The said committee submitted its report on 11.08.2016 and opined that the land in question is *Ghairmazarua Aam* land and also has been recorded as "Pichhali Nadi" in the Cadastral Khatian.

17. Learned counsel for the State further submitted that the Collector, Patna after considering all the facts on record and report of the Three-Man Committee, has passed elaborate order on 16.12.2022 in Jamabandi Cancellation Appeal Case No. 1 of 2011-12 as well as order dated 12.04.2023 in Jamabandi Cancellation Appeal Case No. 1 of 2012-13 under Section 4(h) of the B.L.R. Act, whereby Jamabandis created over Plot No. 1220 which is *Ghairmazarua Aam* land "Pichhali Nadi" has been cancelled and further direction has been given to



the Circle Officer, Patna Sadar for removal of encroachment from the land in question and S.D.O., Patna Sadar has been directed to take needful action against the concerned persons who have creating illegal Jamabandi with regard to the land mentioned above.

18. Learned counsel for the respondents/ state authorities vehemently submitted that the Collector, Patna has clearly observed that the opposite parties (including the petitioner) in Jamabandi Cancellation Appeal No. 1 of 2011-12 have not filed any documents with regard to the settlement of land by the ex-landlord before 01.01.1946 despite issuance of notice while many other *raiyats* had remained present and filed their objections. Further public notice had been published in the daily newspaper for those who could not remain present in the said proceedings. Thus, there is no violation of principle of natural justice. The Collector, Patna has proceeded in the matter in the light of the order dated 22.04.2015 passed by this Court in L.P.A. No. 601 of 2015 and passed speaking order dated 16.12.2022 in Jamabandi Cancellation Appeal No. 1 of 2011-12 and order dated 12.04.2023 in Jamabandi Cancellation Appeal No. 1 of 2012-13 under Section 4(h) of the B.L.R. Act, whereby the illegal Jamabandis created with regard to Plot No. 1220



which is *Ghairmazarua Aam* land "Pichhali Nadi", is just and proper. It is further submitted that the petitioner had misinterpreted the Three-Man Committee's report. It has been clearly mentioned in the said report dated 11.08.2016 that the ex-landlord had no power to settle or issue Patta of *Ghairmazarua Aam* land either before 01.01.1946 or afterwards. If it has been done by the ex-landlord, then it is illegal and any Jamabandi created on the basis is not tenable in the eye of law. Therefore, petitioner is not entitled for any claim over the *Ghairmazarua Aam* land and claim of compensation for *Ghairmazarua Aam* land is in the teeth of decision of Hon'ble Apex Court in the case of ***Jagpal Singh & Ors. Vs. State of Punjab and Ors. (Civil Appeal No. 1132 of 2011 @ S.L.P. (C) No. 3109 of 2011.*** It is further contended that the applicability of the case of ***Indore Development Authority (Supra)*** in respect of for Section 24(2) of the Act of 2013 is with regard to the award prepared for *raiyati* land but in the present case, the award has been prepared in favour of the State Government as it is *Ghairmazarua Aam* land. The decision taken for depositing the award amount in the Government Treasury is justified in the eye of law. Hence, the order passed by the Hon'ble Apex Court in the case of ***Indore Development Authority (supra)*** is not



applicable in the facts of the present case. Hence, no interference is required in Jamabandi Cancellation Appeal No. 1 of 2012-13.

19. In response to the submissions made by learned counsel for the respondents / state authorities, the learned counsel for the petitioner has submitted that after the revival of Jamabandi Cancellation proceeding in 2023 without issuance of fresh notice and without affording opportunity of hearing and without any recorded satisfaction of the Collector, constitutes violation of principle of natural justice. The order dated 12.04.2023 has been passed by the Collector, Patna in Jamabandi Cancellation Appeal No. 1 of 2012-13 behind the back of the petitioner without any notice or opportunity of hearing. Learned counsel for the petitioner further submitted that it is admitted fact that Raj Nath Singh and Dinnath Singh, who were son of Gauri Charan Singh, sold the land to one Satya Deo Prasad on 20.02.1963 who is the vendor of Smt. Indrani Devi, the mother of the petitioner. The name of Satyadeo Prasad was also mutated and entries were recorded in the Register-II. In the year 1965, Satya Deo Prasad sold the land to Smt. Indrani Devi by executing the registered sale deed in her favour for total area measuring 4.5 Bighas. Her name was also



mutated and entries were recorded in Register-II and Jamabandi No. 1789 was created in the name of Smt. Indrani Devi. The land, in question, is part of registered sale deed of the year 1963. The sale deed executed in favour of the mother of the petitioner (Smt. Indrani Devi) has never been challenged. The Collector only on the basis of land recorded in the Survey *Khatiyān* as '*Pichhali Nadi Ghairmazarua Aam*' noted that after vesting of estate, the said land deemed to be public land and Jamabandis created in the name of the petitioner and others are illegal in the eye of law, and accordingly, Jamabandis of the petitioner and others were cancelled without appreciating that the settlement of the Predecessor-in-interest is of 1941. This fact reveals from the report of the Three-Man committee dated 11.08.2016 constituted by the Collector itself vide order dated 12.03.2015. Three-Man committee observed in its report that alleged settlement by Ex. Zamindar was made before 01.01.1946. This Section 4(h) will not be applicable. It is also observed that if any settlement was made by the ex. proprietor before 01.01.1946 or after that with regard to the *Ghairmazarua* land, the same is illegal. The issue of settlement on the *Ghairmazarua* land was a subject matter of the decision in the case of *Maya Devi & Ors. Vs. State of Bihar & Ors.* reported in (2014) 4 BBCJ 152. It is



wrong perception that there cannot be any settlement of a *Ghairmazarua Aam* land. It is also well settled in the case of ***Brij Bhukan Kalwar Vs. S.D.O*** reported in ***AIR 1955 Patna 1*** and ***Musammat Husanbano Vs. State of Bihar & Anr.*** reported in ***1959 BLJR 310***.

20. Learned counsel for the petitioner submitted that it is also admitted fact that the petitioner's land was acquired but no compensation was made in favour of the petitioner or her mother. Hence, the petitioner is entitled to compensation under the Act of 2013.

21. In order to appreciate rival contentions of the parties, it would be necessary to refer to sub-Section (g) & (h) of Section 4 of the B.L.R. Act which runs as follows:-

“(g) Wheher by reason of the vesting of any estate or tenure or any part thereof in the State under the provision of this Act, the Collector is of opinion that the State in entitled to the direct possession of any property he shall, by an order in writing served in the prescribed manner on the person in possession of such property, require him to deliver possession thereof to the State or show cause, if any, against the order within a time to be specified therein and if such person fails to deliver possession or show cause or if the Collector rejects any cause shown by such persons after giving him



a reasonable opportunity of being heard, the Collector shall for reasons to be recorded, take or cause to be taken such steps or use or cause to be used such force as, in his opinion may be necessary for securing compliance with the order or preventing a breach of the peace:

Provided that if the order under clause (g) is passed by an officer below the rank of the Collector of a district, an appeal shall if preferred within sixty days of the order, lie to the Collector of the District and the Collector shall dispose of the appeal in accordance with the prescribed procedure.

(h) The Collector shall have power to make inquiries in respect of any transfer including the settlement or lease of any land comprised in such estate or tenure or the transfer of any kind of interest in any building used primarily as office or cutchery for the collection of rent of such estate or tenure or part thereof, and if he is satisfied that such transfer was made at any time after the first day of January, 1946, with the object of defeating any provisions of this Act or causing loss to the State or obtaining higher compensation thereunder the Collector may, after giving reasonable notice to the parties concerned to appear and be heard annul such transfer; dispossess the person claiming under it and take possession of such property on such terms as may appear to the Collector to be fair and equitable:



Provided that an appeal against an order of the Collector under this clause if preferred within sixty days of such order, shall lie to the prescribed authority not below the rank of the Collector of a district who shall dispose of the same according to the prescribed procedure:

Provided further that no order annulling a transfer shall take effect nor shall possession be taken in pursuance of it unless such an order has been confirmed by the State Government.”

22. From a bare perusal of Section 4(g) of the Act aforementioned, it is clear that recourse under the same can be taken only when any estate or tenure or any part thereof vests in the State and that under Section 4(h) of the B.L.R. Act, the Collector has been clothed with a jurisdiction to make inquiries in respect of any transfer including made any time after 1st January, 1946 with an object of defeating any provision of this Act or causing loss to the estate or obtaining higher compensation and to annul that transfer / settlement and dispossess the persons claiming under that transfer and take possession of that property on such terms as the Collector may deem fair and equitable but that order could be effective order after its confirmation by the State Government.

23. On a plain reading of Section 4, it is clear that Section 4 deals with consequences of such vesting and Section



4(h) is an ancillary provision which has been enacted for the purpose of carrying out more effectively the main provisions of the B.L.R. Act. The provisions of Section 4(h) are intimately associated and linked with the main provision enacted under Sections 3 & 4 which empowers the State Government upon notification to declare that the estates specified in the notification have passed to and become vested in the State. This view has been taken in the case of *Prem Manjari Vs. State of Bihar* reported in *AIR 1954 Pat 550*. In the instant case, the State has not produced any notification with regard to the vesting of the estate of the disputed land. The State could have filed notification that the disputed property vested with the State of Bihar. The Return has not been filed by the State which is the proof of Jamabandi Return. The Jamabandi of the disputed land prepared by the State of Bihar in favour of the tenants, namely, tenant ledger finally published Register of land prepared under Section 28 of the B.L.R. Act (Compensation Assessment Role) carries a presumption regarding certain land having vested in favour of the State of Bihar. This aspect of the provision of law have not been considered by the learned Collector. Only relying on the entry in Cadastral Survey Khatiyani (Ghairmazarua Aam Pichhali Nadi) which is admittedly not a document of title, as



has been held by this Court as well as Hon'ble Apex Court time and again, the Collector has passed the order.

24. Under the Bihar Tenancy Act, 1885, two kinds of land are there, namely, Mazarua (cultivable) and Ghair Mazarua (non-cultivable) and they have been classified according to different uses at the relevant time for which they have been put to now except where any embargo has been placed on the landlord over settlement of any kind of land. The ex-landlord before 1956 was the absolute owner of every inch of land within his Zamindari / tenure and he could settle any land at his will to any tenant, the only exception was with regard to the land over which some kind of customary right had accrued to general public.

25. In the judgment reported in *AIR (34) 1947 Pat 116 (M.T. Bibi Misran Vs. Kishun Pasi)*, *1959 BLJR 310(Musammat Husanbano Vs. The State of Bihar & Anr.)* as well as *1970 PLJR 7 (Mohammad Ashan Vs. State of Bihar)*, the tone and tenor is that *Ghairmazarua Aam* lands could be settled by the ex-landlord subject to the right of general public like customary right. It is admitted fact that the nature of land has been mentioned in the Cadastral Survey Khatiyani which was published in the year 1911 of the Patna District, which is



over 100 years old was shown as *Ghairmazarua Aam Pichhali Nadi* and entry in the Cadastral Survey Khatiyan over 100 years old with regard to the nature of land is not the entry for all times in future. It is entry with regard to the existing state of affairs at that time. It does not preclude the change the nature of the land through a passage of time. It is not an entry which would hold good for all the times and to come and bind all parties and not subject to change either by the settlement or user merely because in the Cadastral Survey, the land is shown as *Ghairmazarua Aam* and that cannot be determinative factor today. It only shows the history. This aspect has been held by a Bench of this Court in the case of *Maya Devi (Supra)*. The mother of the petitioner purchased the land in the year 1965 from the purchaser (Satyadeo Prasad) of the sons of the original settlee of ex-landlord and the name of the mother of the petitioner was mutated in the revenue records and Jamabandi was created in her favour and receipts granted by the State, act as estoppel against the State and they cannot argue that it is valueless because it is issued without prejudice. This question was considered by a Division Bench of this Court in the case of *Sardamoni Debi vs. State of Bihar & Ors.* reported in *AIR 1979 Pat 106* and in paragraph no. 24, this issue was considered



and the Court held that grant of receipt by the State without prejudice does not mean that the State is not bound by them. The petitioner has been on the land for over 60 years. The name of the mother of the petitioner has been recorded in the Government revenue records. Those records are not prepared in the recent past. The action of the State for initiation of proceeding under 4(h) of the B.L.R. Act and cancellation of old standing Jamabandi is mainly on the basis of entry in the Survey Khatiyan as *Ghairmazarua Aam*.

26. The Collector of the district is the custodian of the revenue records. Despite that the state authorities did not file Return which would clarify real issue in dispute.

27. In view of the above discussion, in my opinion, under the statutory framework of Bihar Land Reforms Act, 1950, the initiation of Section 4(h) of the B.L.R. Act proceeding requires vesting as foundational pre-requisite. The provisions enacted under Section 4(h) of the B.L.R Act are not independent provisions of the Act, the provisions are ancillary in character and Section 4(h) has been enacted for carrying out more effectively the main provisions of the Act. The main provisions of the Act are Sections 3 & 4 which empowers the State Government upon notification to declare that the estates



specified in the notification have passed to and become vested in the State. The inquiry imposed on the Collector under Section 4(h) of the B.L.R. Act is meant, in the first place to find out what is the quantum of the property vested in the State by notification under Section 3 of the B.L.R. Act, and, in the second place, Section 4(h) is meant for preventing the evasion of the Act by dishonest Zamindars. The parent heading of Section 4 explicitly states " consequences of the vesting of an estate or tenure in the State". Therefore, all sub-Clauses under Section 4 including the Collector's power under the 4(h) of the B.L.R. Act to inquire into and annul fraudulent transfer made after 01.01.1946 are merely ancillary consequences that triggered only after an estate has officially passed to and vested in the State under Section 3 of the B.L.R. Act. There is no notification produced under Section 3 or 3A by the State during the present proceeding and earlier proceeding. The Collector lacks the inherent jurisdiction to initiate proceedings under Section 4(h) of the B.L.R. Act without its vesting is legally invalid, incompetent and void on its inception.

28. In view of the preceding paragraphs, the Collector had no jurisdiction to initiate the proceeding under Section 4(h) of the B.L.R. Act. There is no material on record to show that



the land in question vested in the State and notification under Section 3 of the B.L.R. Act was ever issued. The petitioner's mother purchased the land from the predecessor-in-interest of original settlee of the land, in question, by erstwhile ex-landlord in the year 1941. This fact has also been duly certified and established by the report of the Three-Man committee constituted by the Collector itself. The members of the committee are the agencies of the State. Moreover, the Collector / revenue authorities has no jurisdiction to annul the transfer or settlement made before 01.01.1946. The Collector did not have any jurisdiction under Section 4(h) of the B.L.R. Act to cancel a duly created Jamabandi which was created and rent was accepted by the State. However, this Court as well as the Hon'ble Apex Court has consistently held that long standing Jamabandi created in favour of a person cannot be cancelled in a summary proceeding and the title of the petitioner cannot be doubted in a summary proceeding. If the State wishes to challenge a pre 1946 title or settlement, the proper remedy is to approach a competent Civil Court rather than executing a summary cancellation via revenue proceedings.

29. So far entitlement of compensation for the petitioner's land which has been acquired by the State in the



year 1976 is concerned, the question would arise whether the petitioner is entitled for compensation of her land as per new Act of 2013 or under old Act of 1894. This question has been answered in the case of ***Indore Development Authority (Supra)***. Paragraph no. 366 of the aforesaid judgment reads as under:-

366.1. Under the provisions of Section 24(1) (a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the 2013 Act under the 1894 Act as if it has not been repealed.

366.3. The word “or” used in Section 24(2) between possession and compensation has to be read as “nor” or as “and”. The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.



366.4. *The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.*

366.5. *In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.*

366.6. *The proviso to Section 24(2) of the*



2013 Act is to be treated as part of Section 24(2), not part of Section 24(1)(b).

366.7. The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).

366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

30. Having considered the aforesaid celebrated



judgment of the Hon'ble Apex Court, this Court is of the view that the petitioner is entitled to payment of compensation under the Act of 2013. In the case of ***Indore Development Authority (supra)*** it has been held that the expression "paid" in Section 24(2) of the Act of 2013 does not include a deposit of compensation in court and according to Section 24(2) of the Act of 2013, the consequences of non-deposit as on the date of notification for land acquisition under Section 4 of the Land Acquisition Act, 1894 is that the land holder shall be entitled for compensation according to the provision of the Act of 2013. Non-deposit of compensation in court does not result in lapse of the land acquisition proceeding. In case of non-deposit with respect to the majority of the holdings for 5 years or more, the compensation under the new Act of 2013 has to be paid to the land owners on the date of notification for land acquisition under Section 4 of the Land Acquisition Act, 1894.

31. In view thereof and in the entirety of the facts and circumstances, this Court is of the view that order dated 12.04.2023 passed in Jamabandi Cancellation Appeal Case No. 1 of 2012-13 by the District Collector, Patna is not fit to stand in the eye of law. Therefore, the same is held to be illegal without jurisdiction and accordingly quashed. The Jamabandi created in



favour of the mother of the petitioner is restored and it is held that the petitioner is entitled for compensation under the Act of 2013.

32. Accordingly, this writ application is allowed.

33. Pending interlocutory application(s), if any, shall stand disposed of.

(Khatim Reza, J)

premchand/-

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