

# In The Court of Deputy Commissioner, Ramgarh

Misc. Appeal No. 65/09

Benilal Mahto & Others Versus Fauda Ganjhu & Others

## Order

24-9-13

The present appeal is directed against the order dated 31-10-2008 of S.D.O., Ramgarh which suspended the Jamabandi of the appellants and allowed the Jamabandi in the names of successors of Mochi Singh son of Jagat Pal Singh.

Admittedly Khata No. 01, 10, 13, 14, 63, 65, 69 and 72 of village Karo is recorded as "Bakasht Land" and Jamabandi existed in the names of nineteen persons including Dumar Mahto, Bhuneshwar Sahu, Lal Mohan, Budhan Lal Mahto and others under Khata No. 65, 13, 14, 63, 72, 69, 10, 01.

The learned DCLR, Ramgarh considered the case and recommended the suspension of existing Jamabandi along with initiation of a new Jamabandi in the names of successors of Mochi Singh. This recommendation was approved by the Sub Divisional Officer, Ramgarh.

It appears from the averments made by the parties in their respective pleadings that the dispute is with regard to the title and possession of the land in question. The Appellants claimed that the Khewatdar of Khewat No. 2/4 and 2/5 was Harilal Mahto, that of Khewat No. 2/2 and 2/3 was Narayan Bhagat and Raghunath Bhagat and that of 2/6 was Mutluf Hasan. But this has been disputed by the respondents claim that the landlord of all land under dispute was Mochi Singh.

The learned Sub Divisional Officer has passed the following order :-

pvij l ekgukkz g tkjhckx ds fofo/k okn l d; k&3@98&99 Qkshk xa>w  
cuke eyhd dyhe ,oa vl; eafnukad 30-10-2004 dks ikfjr funsk ds vkykd eaHkfe  
l dkj mi l ekgukkz jkex<+l s l ger jgrsgq vkond dk vkonu Lohdr fd; k tkrk  
gSrFkk ekst k dkjk [krk l 0&01] 10] 13] 14] 63] 65] 89] ,oa 72 ds [kfr; kuh j\$ r  
[koV l d; k&2@1 ekfyd ekph fl g fir k txriky fl g ds o'ktka ds uke l s  
tekmh dk; e djus dh Lohdr nrs gq vpy vf/kdkjh] jkex<+ dks yxku j l hn  
fuxr djus dh vufr nh tkrh g\$ v\$ mDr foif{k; ka ds uke l s l inX/k dk; e  
tekmh dks LFKfxr j [krs gq fofo/kor~ vxrj dkj bkbz grq vfHky\$ k vpy vf/kdkjh]  
jkex<+dks Hkst nh tk; AB

The above order of the S.D.O. Ramgarh decided the following issues :-

- a) Issue of Title between present appellants and the respondents.
- b) Jamabandis of the appellants suspended.
- c) Jamabandi of the respondents created.

Coming to the first issue it is well established law that the revenue authorities do not have jurisdiction to decide right, title and interest of the parties. It is quite clear that the dispute relates to the title and possession. In such a situation and particularly when the Jamabandi was running in the name of the present appellants, the proper remedy for the respondent was to get the title adjudicated by the civil court of competent jurisdiction. The aforesaid finding demonstrates that the order of the S.D.O. was not in accordance with law.

As regards the second issue, it is a well settled law that the S.D.O. or the LRDC had no jurisdiction or power to suspend, cancel the jamabandi and remove the names of the appellants from the tenants ledger. The same view was taken by the Hon'ble Patna High Court in the case of **Harihar Singh Versus The Additional Collector and others** which was latter reaffirmed by several other decisions like in the case of **Jamaluddin Ahmed Versus The Sub Divisional Officer, Khagaria.**

Now considering the creation of Jamabandi of 'Bakasht Land', the learned S.D.O., Ramgarh has completely ignored the provisions of the Bihar Land Reforms Act, 1950 supplemented by several other circulars of assessment and realisation of rent. Rent is first assessed under Section 5, 6 and 7 of the BLR Act and then Jamabandi follows. But the S.D.O. has put the cart before the horse by ordering the creation of Jamabandi without fixation of rent.

The circular No. E/XXIV-3038/59-5500 LR dated 19-07-1960 has fixed PERIOD OF LIMITATION OF 10 YEARS (since vesting) for assessment of rent and after that rent becomes time barred. This has also been over looked by the S.D.O., Ramgarh. Now the power of rent fixation cannot be exercised unless the Government extends the period of limitation.

In the result the appeal is allowed and the order of the S.D.O., Ramgarh is set aside.

Written and Corrected by

Deputy Commissioner,  
Ramgarh.

Deputy Commissioner,  
Ramgarh.