

20.9.13

The present case relates to cancellation of jamabandi of the following lands:-

Anchal	Village	Khata No.	Plot No.	Area
Ramgarh	Marar	1	547	4.34 Acre
			533	1.03 Acre
			1405	0.51 Acre
			Total	5.88 Acre

The case was initiated by the Circle Officer, Ramgarh on the ground that jamabandi of Jhari Mirdha for the above mentioned plots was unauthorised. Even the rent receipts posted in current tenants ledger (Reg.II) were fake and none of such receipts books were issued by the Anchal office.

Record was then sent to the D.C.L.R. and Sub Divisional Officer who agreed with the recommendation of the C.O., Ramgarh. The Additional Collector, Ramgarh has also examined the record and put up his observation on 18-09-2013. The A.C. has concluded that the current jamabandi of the respondent should be cancelled and land should be resumed under section 4(h) of the Land Reforms Act.

Coming to the entry of the land in the Record of Rights, it is an admitted fact that the land under consideration is Gairmazarua Khas and is recorded as 'Jangle' (Forest).

Respondent was noticed and a written argument has been submitted. The respondent claims to have acquired land by hukumnama in 1939. It is claimed that rent has been paid till 1974-75. When the State refused to realise rent, a Miscellaneous Case was filed in the Court of Additional Collector, Hazaribagh. The latter ordered in Case No. 1/2007,

that rent should be realised from the successors of the Jamabandi Raiyat.

A perusal of the documents of the present record shows that the Jamabandi Raiyat has not produced the so called 'Hukumnama' of 1939 and the Zamindari Rent Receipts. There is a gap between 1939 and 1956 (Vesting of zamindari). Even after vesting of zamindari continuous rent receipts have not been submitted to prove continuous possession and occupancy right.

The Circle officer has given the finding on 16-12-2006 that the serial numbers of the rent receipts pasted on Register II were compared with the Stock Register of Rent Receipts and it transpired that all the entered rent receipts were fake.

In the present case, it is also clear that Jamabandi has been started without any orders of the competent authority. For the first time, a Jamabandi is created when rent is fixed for a particular land by competent revenue authority and then jamabandis keep on running by sale and purchase followed by mutation. No evidence is available in the present case on the origin of jamabandi. It seems that the lower functionary like Karmchari might have entered the name of the respondent without any authority.

In case of L.P.A. No. 425 of 2006, Jagdeo Mahto vs. Commissioner, North Chotanagpur Division Hon'ble Double Bench of the Jharkhand High Court has held on 10-02-2009 that,

"if an order is found to have been passed by an authority having no jurisdiction or when such order is found to be absolutely illegal based on the apparent error of law, or facts or when it is found to be perverse not based on record, then certainly in such cases Jamabandi running or standing in the name of a particular person can be cancelled by a competent authority but of course after giving proper notice and opportunity of hearing to the party who would be adversely affected."

More importantly all the plots in the present case are recorded as 'Jungle' in recorded of rights. It is significant to refer to a landmark judgment passed by Hon'ble

Supreme Court dated 12-12-1996 in Writ Petn. Civil Nos. 202 of 1995 with 171 of 1996 T.N. Godavarman Thirumulk pad ek. vs. Union of India (1997) S.C./78 (AIR 1997 SC 1228). In the said decision it was held that "..... the term" forest land "occurring in Section 2 will not only include 'forest' as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of ownership" It was further held that all on-going activity within any forest land in any State throughout the country without prior approval of the Central Government, must cease forthwith.

It is thus concluded that the respondent has fabricated documents and framed stories to grab the 'forest land' which is absolutely vested in the State Government. The Jamabandi is unauthorised, illegal and baseless.

In view of aforesaid findings, it is recommended that the existing jamabandi of the respondent should be cancelled. This record may be sent to the Department of Revenue and Land Reforms through the Commissioner, North Chotanagpur Division for approval.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

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