

C.P. 12
9/4/13

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C. W. J. C. NO. of 2013

Md. Habib and others.....petitioners.

versus.

The state of Bihar and ors....Respondents.

sub- Mutation matter.

I N D E X

<u>Sl.No.</u>	<u>particulars.</u>	<u>page nos.</u>
1.	petition with affidavit.	1 -12
2. <u>Annexure-1.</u>	The photo stat copy of the R.S. Khatiyar .	13 -
3. <u>Annexure-2.</u>	The photo stat copy of the rent receipt in the name of Yasin Shah and Gohal Shah.	- 14 -
4. <u>Annexure-3.</u>	The photo stat copy of the information dt. 18.9.2012 and report dated 28.9.2012.	- 15-16
5.	v a k a l a t n a m a .	

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C. W. J. C. NO..... of 2013

Md. Habib and others.....petitioners.

vrs.

The state of Bihar & ors....Respondents.

synopsis of this case.

That this is a petition for issuance of an appropriate writ/ writs, order/ orders, direction /directions, against the respondents/ authorities for restraining them from afore the illegal and wrong interference with the right , title and possession over the land under dispute having residential houses of this petitioners where they are residing since the life time of their great grand father over which the private respondents no.5 and 6 creating disturbance without any valid right title and interest but only in collusion with the Malka Karmchhari and the circle officer, under the following facts and circumstances of this case.

F a c t s.

18.2.1977 - That the land appertaining to khata no.73 plot no. 1291 an area 0.10 decimals situated at puraini near residential houses recorded in khatiyan in the name of Yasin Shah, Gohal Shah and co-sharer most. Ghal and most. Yakiya and khatiyan dated 18.2.1977.

(Annexure-1)

25.8.2012 - That after the death of Yasin Shah and Gohal Shah petitioner s went to deposite the rent of lands when the Malka Karmchari issued rent receipt date 25.8.2012 only of the area $4\frac{3}{4}$ decimals of khata no.73 plot no.1291 when the total lands are 0.10 decimals. (Annexure-2)

28.9.2012 - That the petitioner no.1 has filed an application for information regarding the total land 0.10 decimals out of which $3\frac{3}{4}$ decimals land now the zamabandi fixed in the name of Sattar or Jabbar (respondents no.5 and 6) on which the circle officer directed the office to give the details of zamabandi fixed in their name but how this zamabandi was fixed while this land under dispute having the residential houses are coming in possession of this petitioners who never transferred any piece of the land (Annexure-3). That the respondents no.5 & 6 are adamant to the law in this hand without any legal orders.

285

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
PATNA SOORE PATNA
COURT FEE



STAMP DUTY
K. m. Takim, R. No. 00000

बिहार
JUDICIAL

Rs. ≈ 0000285 ≈

16.3.2013

DUIAD

73 5137400

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C. W. J. C. NO. of 2013

In the matter of an application
under article 226 of the constitu-
tion of India;

and

In the matter of

1. Md. Habib shah.
2. Md. Jamal shah.

Both sons of Late Gohal shah

Both residents of village and p.s.-
puraini, District Madhepura.

.....petitioners.

Versus.

1. The state of Bihar.

2. The collector, Madhepura.

3. The circle officer, puraini, District- Madhepura.

4. The Malka Kamchhari, Malka no.2 circle puraini, District-
Madhepura.

5. Md. Sattar

both sons of Late salamat shah

6. Md. Jabbar.

both resident of village-shalarpur, p.s.

parbatta, District- khagaria, at present

residing at village & p.s. puraini, District-

Madhepura.

7. Md. Tahir son of Late Md. Ismail

resident of village and p.s.-puraini, District-

Madhepura.

..... Respondents.

TO

The Hon'ble MS. Rekha M. Doshit, The Chief Justice

of the High Court of Judicature at Patna and her

Companion Justices of the said Hon'ble Court.

The humble petition on behalf of

the petitioners above named ;

Most Respectfully sheweth :-

1. That this is a petition for issuance of an appropriate writ/ writs, order/ orders, direction/ directions, against the respondents for ^vrestaining them ~~about~~ the illegal and wrong interference with the right, title and possession over the land under dispute having residential houses of this petitioners where they are residing since the period of their great grand father over which the private respondent no.5 and 6 creating disturbance without any valid right, title and interest but only in collusion with the Malka Kamchhari and the circle officer, under the following facts and circumstances of this case.

2. That the petitioners are the citizen of India.

3. That ~~the~~ in this writ petition the following substantial questions of law are involved for kind consideration by this Hon'ble High court

- 1) whether the petitioners who are the only legal heirs of the Khatiyani Raiyat having in possession of the land with residential houses can be disturbed or interfered with by the private respondent no. 5 and 6 without any documentary proofs ?
- ii) whether the zamabandi of the land under dispute running in the name of grand father of the petitioners can be disturbed without any transferred or without any valid documents against the petitioners ?
- iii) whether the respondent no.3 (the circle officer) who without perusal of the record and depending upon the wrong and false report of the local Karmchari can disturb the zamabandi fixed in the name of the grand father of the petitioners and continueing till date ?
- iv) whether the total land appertaining to khata no.73 plot no.1291 an area 0.10 decimals over wh:

which the residential houses are in possession can be claimed by the respondent no.5 and 6 who are outsider and got no relation with the petitioners can get zamabandi fixed in collusion with the Malka Karmchari is permissible in law ?

v) whether the total lands measuring an area 0.10 decimals recorded in the name of the grand father of this petitioners who never transferred any part of the land even then area can be lessened when neither the grand father nor the petitioners have transferred any piece of land ?

4. That the petitioners prays for the following relief :-

(A) That the respondent no.3 may kindly be directed to issue rent receipt of total land 0.10 decimals as recorded in the name of the grand father of this petitioners who never transferred to any body and only the petitioners are in possession in the house

existing since long.

B) That the private respondents no. 5 and 6 may kindly be directed to strictly restraining for any kinds of interference without any legal and valid documents regarding the land under dispute.

C) That the respondent no.3 may kindly be further directed to give the details and reason about the fixation of zamabandi No.1590 in the name of private respondent no. 5 and 6.

D) That any other relief or reliefs for which the petitioners are intitled to, may kindly be given.

5. That the relevant facts of the case for consider.

ation is that the land appertaining to khata no.73 plot no.

1291 an area 0.10 decimals situated at puraini having

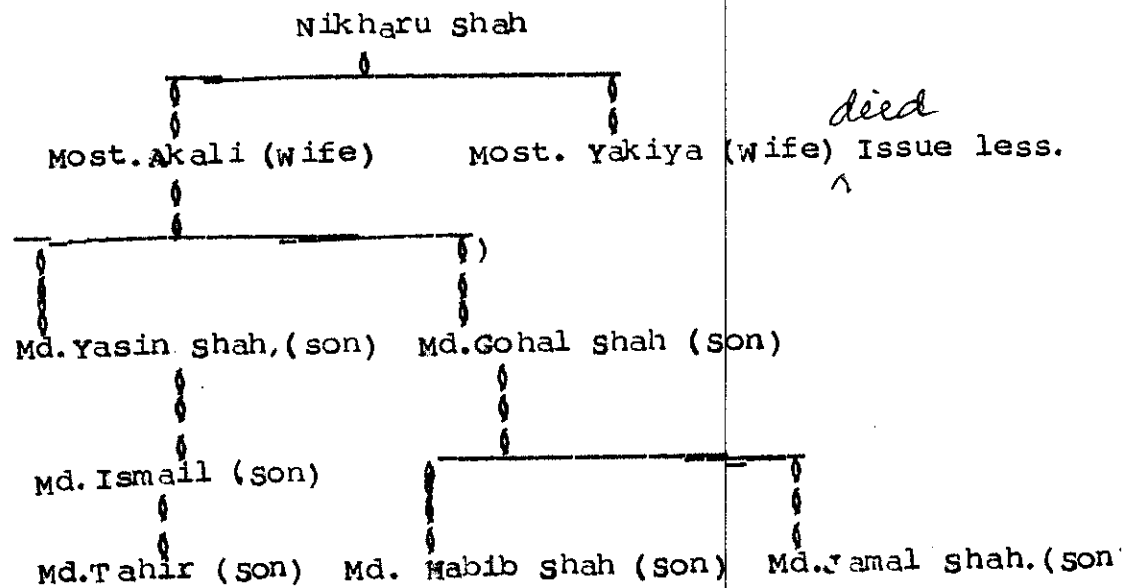
residential houses recorded in khatiyar in the name of

Yasin shah, Gohal shah and co-sharer Most. Akali and

Most. Yakiya.

The photo stat copy of the R.S.Khatiya is attached herewith and marked as Annexure-1 to this writ petition.

6. That it is stated and submitted that the genealogical table of this petitioners are as follows :-



7. That after the death of recorded raiyat the petitioners and the respondent no.6 have got right, title and possession having residential houses with Bari-Jhari having equal sharer of each other.

8. That it is stated and submitted that after the death of yasin shah and gohal shah, petitioners went to deposite the rent of lands when the Malka kamcha

Karmchhari issued rent receipt only of the area $4\frac{3}{4}$ decimal of khata no.73 plot no.1291 when the total lands are 0.10 decimals.

The photo stat copy of rent receipt in the name of Yasin Shah and Gohal Shah is attached herewith and marked as Annexure-2 to this writ petition.

9. That it is stated and submitted that the petitioner no.1 has filed an application for information regarding the total land 0.10 decimals out of which $3\frac{1}{4}$ decimal land how the zamabandi fixed in the name of Sattar or Jabbar (respondent no.5 and 6) on which the circle officer directed the office to give the details of zamabandi fixed in their name but how this zamabandi was fixed when the land under dispute having the residential houses are coming in possession of the petitioners who never transferred any piece of the land.

The photo stat copy of the application for information dated 18.9.012 and report dated 28.9.2012 is attached herewith and marked as Annexure-3 to this writ petition.

10. That it is stated and submitted that the Halka Karmchari had not given report about the basis of fixation of zamabandi in the name of private respondents but ~~times~~ ^{no-5 & 6} time without number the petitioner moving regularly ^{for knowledge} but only on vague report of Karmchari the circle officer is not ^{disclosing} ~~disclosing~~ the details of fixation of zamabandi in the name of private respondents no. 5 and 6.

11. That it is stated and submitted that the private respondent no.5 and 6 are creating trouble in piece full possession on the petitioners without any document in ~~xxxx~~ their favour.

12. That it is stated and submitted that the circle officer Respondent no.3 is the custodian of the record of

of Register-II and ~~in~~ possession of zamabandi fixation register but he ^{is} not providing detail information about the illegal and wrong fixation of zamabandi and report in favour of them, when the petitioner or any co-sharers of the petitioners have / had never transferred any piece of land to the private respondent no.5 and 6 who are putting disturbance in possession of this petitioners.

13. That the petitioners have got no other alternate efficacious remedy than to move before this Hon'ble High Court in its writ jurisdiction .

14. That the petitioners have not moved earlier before this Hon'ble High Court for the grievances as made in this writ petition prior to it.

It is, therefore, prayed that your lordships may graciously be pleased to admit this case, issue notice to the respondents asking them to show cause as to why the grievances of this petitioners as made in paragraph no.1

to this writ petition and after hearing
the parties allow the same or pass
such other order or orders as your
lordships may deem fit and proper.

and for which the petitioners shall ever pray.

A f f i d a v i t.

I, Md. Jamal shah aged about 55 years son of Late Gohal shah a resident of village and p.s. puraini, District- Madhepura, do hereby solemnly affirm and state as follows :-

1. That I am petitioner no.2 in this case and as such I am well acquainted with the facts and circumstances of this case.

2. That the contents of this petition have been read over and explained to me in Hindi which I have fully understood the same.

3. That the statement made in paragraph nos. 2, 5, 6, 7, 10, 11, 13, 14 — are true to my knowledge and the statement made in paragraph nos. 8, 9, 12 — are true to my information derived from the records of this case and the rest are by way of submissions to this Hon'ble cou

4. That the annexures are true photo stat/ typed copies of their respective originals.

मो. जमाल शाह



6612
 18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

18/8/12
 18/8/12
 18/8/12
 18/8/12
 18/8/12

13XCE1576
 18 FEB 1979
 SL

Sch. XIV - F. No. 180V.

वि० न० प्रेष, गया।

परिवार का नाम
 नाम रयते मय वलिकृत जमादन्दी
 याना दो धाना मध्वर।

फरद मालकी/फरद रयती।
 नाम रयते मय वलिकृत जमादन्दी
 यो सकुनत। नम्वर।

उत्की उत्की 148 कासकर (नगदी) 73
 लकडी 40 भावली

बराजी नगदी बराजी भावली तफसील हिसाब लमान भावली।

0.04 रु।

जोत का सालाना मांग मय तफसील (बकाया दो हाल) सोजूदा हाल का।

मांग बाबत	सालाना	बकाया				हाल
		तीन वर्ष से ज्यादा।	दो वर्ष।	एक वर्ष।	शुद्ध।	
2012-13						12-13
माल- (नगदी)	0.50				6.00	0.50
गुजारी (भावली)	0.15				1.50	0.15
सुद ...	0.30				3.00	0.30
सुद ...	0.30				3.00	0.30
भुतकरकात ...	0.20				2.05	0.20
मोजान	1.45				15.55	1.45

तफसील बकायकारी।

बकायकारी बाबत।	बकाया				सोतावला हाल।	फाजिल
	तीन वर्ष से ज्यादा।	दो वर्ष।	एक वर्ष।	शुद्ध।		
					12-13	
माल- (नगदी)				6.00	0.50	
गुजारी (भावली)				1.50	0.15	
सुद ...				3.00	0.30	
सुद ...				3.00	0.30	
भुतकरकात ...				2.05	0.20	
मोजान बकायकारी				15.55	1.45	

(1) मोजान कुल (लफजों दो) - 15.55 रु।

(2) नाम देहिन्दा - (93 म० जमात)

(3) कुल बकाया - 17.00 रु।

*आस महाल का बकाया मालगुजारी पर (सिवाय दोसे बकायों पर विन पर कि) सदिफिकेत

बायी दो) सुद नही लिया जाता है।

2012 - 2011 का 73 1291 0047

मन्दि हुगा 21/08/12



APPLICATION FOR INFORMATION

Number and Date	Name and residence of applicant	Nature of the information required	Date on which the information is to be read	Signature of officer receiving the application	Remarks
<p>90 18/09/12</p>	<p>मौ० हबीब खाद पिता गोहल साह मरहूम ग्राम-पुरैनी थाना पुरैनी जिला मधेपुरा</p>	<p>मैं जानना चाहता हूँ कि मौजा पुरैनी थाना नं. 146 रकबा नं. 3 रकबा 1231 रकबा 10 और में 31 की जमीन मो. 10 निसार की जमीन नं. 1231 रकबा के साथ जो. 1590 किस आकार पर कस हस्ता नका किसने कि का साबुत आकार को पूरा जानवारी दे सक पावेंगे।</p>		<p>डाक्टर हाकति न दोनी सूचना दिमाज सकल ईए</p>	<p>18/9/12</p>

Received form

Application No.-

of Date

of information which will be read on

Dated

200

Clerk in Charge

93
मौजा-पुरी धाना नं-146 में जठ नं-1590 खता-73
खेसरा-1291 खजाना-6.071 जमीन नं खतार नं डाब्का
साह पे-सलामत साह के नाम से उपर है

लाल कृष्ण
28/03/12
कनिष्क
खजाना-2
पुरी

हिंदू
महाराज प्रसाद
1-10/1/12
28/03/12

