

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20084 of 2025

1. Birendra Kumar Son of Sri Chotelal Singh,
2. Ptamber Singh, S/o Maheshwar Singh,
3. Sikandar Yadav, S/o Late Gainu Yadav,
4. Shailendra Prasad Singh, S/o Nirdhan Singh,
5. Sudhir Prasad Singh, S/o Late Mishri Prasad Singh,
6. Uday Kumar Singh @ Uday Kumar, S/o Upendra Singh,
7. Brahmdeo Singh, S/o Late Shanti Singh,
8. Ghanshyam Singh, S/o Late Arjun Singh,
9. Ram Bilash Singh, S/o Brajlal Singh,
All resident of Village- Dighaun, Ward No. 7, P.S.- Beldaur, District-
Khagaria.. .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Land Reforms and Revenue, Govt. of Bihar, Patna.
3. The Director, Land Records and Measurement, Directorate Gulzarbagh, Patna.
4. The District Magistrate-Cum-District Collector Khagaria, District- Khagaria, Bihar.
5. The District Settlement Officer, Khagaria, District- Khagaria, Bihar.
6. The Additional Collector Revenue, Khagaria, District- Khagaria, Bihar.
7. The Sub-Divisional Officer Khagaria Sadar, District- Khagaria, Bihar.
8. The Deputy Collector, Land Reforms and Revenue Khagaria Sadar, District- Khagaria, Bihar.
9. The Circle Officer Khagaria Sadar, District- Khagaria, Bihar.
10. The Circle Officer, Beldaur, Anchal- Beldaur, District- Khagaria, Bihar.
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Thakur, Advocate
For the Respondent/s : Mr.Venkatesh Kirti, Advocate, JC to GA 2

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-01-2026

Heard learned counsel appearing on behalf of the petitioners and the learned counsel for the State.

2. The petitioners in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is



reproduced hereinafter:-

“(i) The gairmajarua Khas, Baksat and Sarvasta lands of petitioners may be declared raiyatee land in on going survey on the basis of sale deed land revenue receipts as well as Register -II.

(ii) Database may be rectified by arranging camps at mauza level for the smooth and fair functioning of on going survey.

(iii) Claims of petitioners may be heard and redressed of all mauza i.e. (a) Dighaun (b) Gandharsan (c) Beldaur, (d) Sanahauli (e) Khagaria sadar (f) Sathma.

(iv) Survey may be stopped up to the rectifications of the database and redressal of the grievances and claims of petitioner.

(v) And for any other relief/reliefs for which petitioner may found fit and proper either in the eye of law or among facts of the case.”

3. The brief facts of the case are that Khagaria District, being interspersed with rivers, canals and ditches in abundance, was segregated during the British regime and designated as Pargana Farakiya, within which Beldaur Anchal is situated. The said region originally lay within the course of River Koshi and continues to be affected by annual floods of the said river resulting into deluvium and alluvium. After completion of the survey operations, Sarvasta was carried out by the then Zamindars during the years 1943–44 and settlements were effected prior to 01.01.1946. On the basis of such Sarvasta and settlement, raiyati lands were lawfully settled, transfered by way of registered sale deeds were recognized, and raiyats were granted revenue receipts, pursuant to which the State of Bihar



continued to realise land revenue up to the year 2017–18. It is further the case of the petitioners that consequent upon the survey conducted in the years 1887–1888, the then Zamindars conferred title and ownership rights upon the raiyats, and the settlement papers including Sarvasta Pramangi and other connected documents were duly accepted by the then Government, on the basis whereof absolute title and ownership over the lands stood vested in the raiyats. The petitioners have claimed to be lawful raiyats and absolute title holders of the subject lands situated at Mauza Dighaun, Thana No. 144, Tauzi No. 525 and other mauzas in Khagaria District. The lands were duly purchased by the petitioners and their family members through valid transactions and were settled either in favour of the petitioners or their predecessors. The lands were declared Sarvasta by the erstwhile Zamindars and duly recorded in Register-II of the State of Bihar. Rent receipts were regularly issued by the respondents up to the year 2017–18. The petitioners and their family members are in peaceful, continuous possession of the subject lands for decades and are Kartas of their respective Hindu Undivided Families (HUFs), having inherited the lands from their forefathers.

4. Learned Counsel appearing on behalf of Petitioners



submitted that a recent survey operation is presently underway throughout the State of Bihar, including Khagaria District. During the course of the said survey, local survey and settlement officials have adopted unfair practices and illegal methods, causing serious prejudice not only to the petitioners but also to other genuine raiyats. The petitioners repeatedly approached the respondent authorities, both orally and through written representations, seeking protection of their lawful rights. Despite several representations submitted to the Director, Land Records and Measurement, Gulzarbagh, Patna, and other revenue authorities, no action was taken and complete silence was maintained. During the survey proceedings, the petitioners were advised by local revenue officials to produce sale deeds executed prior to 01.01.1946 by the original Zamindars. However, the petitioners were unable to obtain such documents due to non-availability of Register-II and Khatiyani records, as officially confirmed by the In-charge, District Record Room, who allegedly informed that the records were either unavailable or found in a deteriorated condition and certified copies could not be issued. The petitioners brought this fact to the notice of the revenue officials and relied upon the Extra-Ordinary Gazette of the State of Bihar dated 14.11.2014, requesting the authorities



to follow the rules and guidelines framed by the State Government. However, the respondents failed to consider the same. Being left remediless, the petitioners submitted detailed representations before the District Collector, Khagaria, and the Additional Collector (Revenue), Khagaria, highlighting their genuine and bona fide grievances, but the same yielded no result.

5. Learned Counsel further submitted that the ongoing survey, if allowed to continue in the present arbitrary manner, will cause irreparable loss and serious injury to the petitioners' title, possession, and future rights over the subject lands. The respondents have acted in violation of the guidelines and conditions prescribed by the State of Bihar and published in the Extra-Ordinary Gazette dated 14.11.2014, despite the petitioners being genuine raiyats with established title and possession. Hence, the petitioners seek protection of their raiyati rights and pray that the subject lands under the concerned khata be treated as raiyati lands on the basis of Sarvasta, and that the petitioners' title and possession be declared absolute.

6. The learned counsel for the State informs that the present writ petition is pre-mature as the survey is still continuing and if the petitioners are aggrieved in any manner



by the action of any of the authority in course of the ongoing survey, as per the provision of Bihar Special Survey and Settlement Act, 2011.

7. It is gainful to take note of the fact that a sale deed cannot be a document of title nor the “Record of Rights” is a document of title. At the same time preventing a person from getting the land mutated in ‘Records of Right’ at the strength of valid transfer / sale deed would be contrary to provisions of the Transfer of Property Act, 1882.

8. A registered sale deed **doesn't automatically grant ownership if the seller lacked clear title**, as legal title requires a valid root of title, clear chain of ownership, and often, proven possession, meaning a sale deed from someone without title transfers nothing, regardless of registration as held by Apex Court in case of *Mahnoor Fatima Imran v. Visweswara Infrastructure (P) Ltd.*, reported in, *2025 SCC OnLine SC 1062*, wherein in para no. 16, 22 and 28, the apex court has held as under:

16. The observation that registration of a document gives notice to the world that such a document has been executed is not to confer an unimpeachable validity on all such registered documents. Even the respondents/writ petitioners accept that the presumption coming forth from a registered deed of conveyance is rebuttable. While reserving the right of persons who had obtained sale agreement/general power of attorney/will executed, to complete confirmation of title on them by getting



registered deeds of conveyance, the conclusion of the cited decision, which acts as a binding precedent, is available in para 24, which we extract hereunder:—

“24. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of “GPA sales” or “SA/GPA/will transfers” do not convey title and do not amount to transfer; nor can they be recognised or valid mode of transfer of immovable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognised as deeds of title, except to the limited extent of Section 53-A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in municipal or revenue records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered assignment of lease. It is time that an end is put to the pernicious practice of SA/GPA/will transactions known as GPA sales.”

22. Further, an instrument of conveyance is compulsorily registrable as required under the Registration Act. Section 23 prescribes four-months’ time for presenting a document for registration from the date of its execution. Section 24 provides that if there are several persons executing a document at different times, such document may be presented for registration or re-registration within four months from the date of such execution. In the instant case, all the executants, parties to the agreement, have signed on the day shown in the agreement. The proviso to Section 34 also enables the Registrar to condone the delay, if the document is presented within a further period of four months, on payment of a fine. The validation of the sale agreement, which clearly is shown to be not one executed by the declarants, by reason of it materially differing from that produced as Annexure P-33, on the strength of which a suit for specific performance was filed by the vendor, the Bhavana Society, which is also the intended purchaser in the sale agreement of 1982, it



smacks of fraud. The agreement of 1982, the original one and the revalidated one, cannot result in a valid title, merely for reason that the subsequent instrument had been registered. As we noticed at the outset, the learned Single Judge did not decide the title but only raised valid suspicion insofar as the title of the vendor in the deed of conveyance. Even according to the writ petitioners, their claim stems from a sale agreement, which is not a proper deed of conveyance, especially since it is not a registered document.

28. The cloud on title and the doubts raised on possession by the learned Single Judge, as affirmed by us are merely prima facie observations to deny discretion to invoke the extra ordinary power under Article 226. So are the misgivings expressed on the claim of repossession by the original declarants through their GPA and the skepticism regarding their very right to obtain repossession of property already vested in the State, under a Statute, which Statute also does not provide for any review of the notification issued under the Act; the notification having merely affirmed the statutory vesting. The reservation in favour of the State also arises only from our anxiety to preserve the property, without creation of any third-party interest, to avoid any hindrance of the State's power to invoke the provisions under the Land Reforms Act, if done within a reasonable period, which would also be subject to legitimate legal scrutiny. It goes without saying; then, the parties would be entitled to agitate their respective causes, in the appropriate civil forum or if statutorily prohibited, avail of the remedies made available under the statute which proceedings will not be governed by the findings in our judgment, we having only prima facie declined invocation of the discretionary, extraordinary jurisdiction.

9. The petitioners have made specific statement that the land, which they claim, is affected by flood caused by river Koshi every year and in that background, the petitioners have prayed for stopping the ongoing survey.

10. In this regard, this Court in ***CWJC No. 15963 of 2023 (Shyam Chandra Sharma vs. The State of Bihar)*** while



dealing with the provision of Registration Act, 1908, as well as the ownership of topo land, considering the several resolution of the State Government in respect of ongoing survey of the topo land in the State of Bihar, particularly, in the case relating to Chapra Municipality observed that a title of a person does not get affected in any way by change of his name in records of municipality. Title flows from transfer as devolution of holding which can only be adjudicated in a properly framed title suit. However, a person who is in possession of a holding is liable to pay holding tax. In the present case also taking into consideration that the petitioners have claimed their possessory right over the land on the basis of settlement, which was done much before 01.01.1946 and in accordance with the terms and conditions stipulated in **Resolution No.925 dated 11.11.2014** of the State Government. The petitioners have been able to establish their actual and physical possession and statutory vesting of property. The very right to obtain possession of the property is already vested with the petitioners and the same cannot be taken away in garb of ongoing survey.

11. In view of specific statement contained in Sub-paragraph No.xiii of Paragraph No.2 read with the information contained in Annexure 3 provided by the Incharge Record



Room, Khagaria, the petitioners, if so desire, may seek records, which are not available with them from the District Magistrate-cum-Collector, Khagaria.

12. The State in case disputes the title of the petitioners, the petitioners, if so desire, may also avail remedy before the competent civil court for claiming their right and possession over the land by filing a declaratory suit in case the State finds that they are dispossessed from the government land, however, no such action has been taken by the State Government either claiming the land to be government's recorded land or for the purpose of survey only such topo land has been considered to be government land and such stand of the State has been set aside in the case of *Shyam Chandra* (supra) and affirmed the same in *LPA No.562 of 2024* and also affirmed by the Hon'ble Supreme Court in *SLA No.4556 of 2025*.

13. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.01.2026
Transmission Date	NA

