

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.348 of 2026**

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Krishna Devi W/o - Jai Kishor Chaudhari, R/o Vill Madhiya, P.S Sonbarsa,  
Dis Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Collector, Sitamarhi.
2. The District Collector, Sitamarhi, Dist- Sitamarhi.
3. The Additional Collector, Sitamarhi, Dist-Sitamarhi.
4. The Deputy Collector, Land Reforms, Sitamarhi, Dist -Sitamarhi.
5. The Anchal Adhikari, Sonbarsa, Dis-Sitamarhi.
6. The halka Karamchari Anchal, Sonbarsa, Dist Sitamarhi.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Brij Bihari Tiwary, Advocate  
For the Respondent/s : Mr. Kumar Manish, SC 5  
Mr. Kumar Pankaj, AC to SC 5

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**

**Date : 20-01-2026**

Heard Mr. Brij Bihari Tiwary, learned counsel  
appearing on behalf of the petitioner and Mr. Kumar Manish,  
learned SC 5 along with Mr. Kumar Pankaj, learned AC to SC 5  
for the State.

2. Petitioner has *inter alia* prayed for following  
reliefs in the paragraphs No.1 of the writ petition:-

*“(i) In the nature of certiorari for setting aside  
the order dated 03.12.2025 passed in Mutation Case  
NO.1154 /2025-2026 by the Circle Officer, Sonbarsa  
whereby and whereunder the Mutation application of the  
petitioner has been rejected.*

*ii. In the nature of mandamus directing and  
commanding the respondent authorities to enter the name of  
the petitioner in mutation records in view of direction  
passed by the learned D.C.L.R., Sitamarhi Sadar vide order  
dated 01.02.2025 in Mutation Appeal No.1003/2024-25 and  
in view of order dated 26.08.1995 passed in T.S.*



*No.52/1986, 21/1995 learned Sub Judge, III, Sitamarhi.*

*iii. In the nature of mandamus directing and commanding particularly the Collector, Sitamarhi (respondent 2) to take action against the Circle Officer, Sonbarsa who his intentionally harassing the petitioner and rejecting the claim of mutation repeatedly.*

*iv. For issuance of any other relief or reliefs for which the petitioner is entitled for in the fact and circumstances of the instant case.”*

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had purchased a piece of land *vide* a registered sale deed dated 22.07.2023 from one Mukund Kumar Shahi, situated in Mauza- Sihwahini, P.S. Sonbarsa, District, Sitamarhi. Thereafter, the petitioner filed an application before the Circle Officer, Sonebarsa for mutation of the said land. The Circle Officer, Sonbarsa rejected the application of the petitioner *vide* order dated 14.06.2024. Thereafter, the petitioner preferred an appeal bearing mutation Appeal No.1003/2024-2025 before the D.C.L.R., Sitamarhi Sadar and who *vide* order dated 01.02.2025 (Annexure P/4) quashed and set aside the order dated 14.06.2024 passed by the Circle Officer, Sonebarsa and remanded the matter to the Circle Officer to pass an appropriate order in accordance with law. However, without complying with the direction and order passed in Mutation Appeal No.1003/2024-25 by the D.C.L.R., Sitamarhi Sadar, the Circle Officer again rejected the application of the petitioner. Learned counsel further submitted



that after remand, the Circle Officer again on the basis of similar reason has reiterated the order dated 14.06.2024, without applying his mind by passing a speaking order in accordance with the mandate of Section 6 of the Bihar Land Mutation Act, 2011. He further submitted that the Circle Officer has not conducted inquiry on his own, rather he relied upon the report of the *Karmchari* dated 29.06.2025 and in the most mechanical manner without analyzing the case of the respective parties, the Circle Officer has again deliberately rejected the application for mutation of the land, though he has admitted that the objections were received from 28-30 persons, who were in possession of the land, which the petitioner had purchased by a valid sale deed dated 22.07.2023, executed by the grandson of the original land holder late Shiya Sharan Shai, in whose name the Jamabandi Nos.1294 and 1295 are standing. Aggrieved by the arbitrary action of the Circle Officer, learned counsel submitted that though the petitioner has alternative remedy to file appeal before the D.C.L.R. against the order dated 03.12.2025 but the same will be of no relevance, considering the admitted fact that the Circle Officer is pre-determined to reject the application of the petitioner without assigning any reason. The reason which the Circle officer has assigned is not in accordance with the law



as the impugned order has been passed without mentioning the respective case of the petitioner and the objectors and also without giving the names of the objectors who according to the Circle Officer are in possession of the land which has been sold by the vendor of the petitioner to the petitioner by a valid sale deed. Learned counsel further submitted that the Circle Officer has not analyzed, as to whether, the vendor was in possession of the land, rather he has simply rejected the application of the petitioner on the report of the *Karmchhari* that 28 to 30 persons were in possession over the land. No notice was issued to the vendor. On these grounds also, he wants interference of this Court.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that the Circle Officer has not committed any illegality in rejecting the mutation case of the petitioner in view of the fact that he has acted in accordance with the provision of Section 6 of the Bihar Land Mutation Act, 2011 and the procedure prescribed under sub-Rule (10) of Rule 5 of the Bihar Land Mutation Rules, 2012 as amended upto date. There is no procedural lapses and the conditions stipulated in the Rules mandates that the petitioner should be in physical possession over the land and as such in terms of the report submitted by



the Karamchari that in view of the fact that already the land having been in possession of 28 to 30 persons, it is not possible to hand over the possession to the petitioner in respect of the those lands detailed in the sale deed dated 22.07.2023. Answering to the submission made by the petitioner, he submitted that vendor was not noticed can only be seen from the order sheet of the Mutation Case and no objection to that effect was also made by the petitioner, who was given an opportunity to be heard by the Circle Officer. There is complete failure on the part of the petitioner, who has not taken recourse to the statutory efficacious legal remedy available to her instead of that, she has proceeded to file the present writ petition, which is premature and, as such, the writ petition is fit to be dismissed.

5. Heard the parties.

6. I have perused the evidence brought on record. Petitioner has claimed that she has purchased the aforesaid land vide sale deed No.10696 dated 22.07.2023 from her vendor Mukund Kumar Shahi. The sale deed has been brought on record and in paragraph no.5 the land executed in favour of the petitioner is described as under:-

Khata No.	Survey Plot No./Khesra No.	Total Area
1295	4560	4 decimals
1295	35	1 Decimal



1295	37	1 Decimal
1295	36	2 Decimals
1295	4561	4 Decimals
1295	4562	2 Decimals
1295	34	21 Decimals

7. The vendor of the petitioner is the descendant of erstwhile Jamindar, late Raghuwar Shahi and the jamabandi nos.1294 and 1295 were created in the name of his late son Sita Sharan Shahi. The vendor of the petitioner was regularly paying rent receipt to the Government of Bihar and the revenue receipt in respect of the land in their possession has been brought on record by way of Annexure P/2. One of the descendants of late Sita Sharan Shahi, namely, Janki Sharan Shahi filed title Suit N.52/1986, 21/1995 before the Sub-judge, Sitamarhi and the suit was decided in favour of Mukund Kumar Shahi, the vendor of the petitioner and his brothers. Petitioner has purchased the land from said Mukund Kumar Shahi vide registered sale deed dated 22.07.2023.

8. From the impugned order dated 03.12.2025 passed in Mutation Case No.1154/ 2025-2026, it appears that the vendor of the petitioner has not been noticed and the Circle Officer has proceeded to determine the possession of the petitioner on the basis of information that 28 to 30 persons are in possession of the said piece of land.



9. Question involved in the present case, as to whether, the Circle Officer can restrain himself from mutating the land in question as described above in name of the petitioner when revenue record reveals that jamabandi Nos.1294 and 1295 are running in the name of the ancestor of the vendor, namely, Sita Sharan Shahi, S/o late Raghuwar Shahi?

10. The impugned order reveals that the Circle Officer has not gone into to determine the said fact and without considering the same, he has rejected the application of the petitioner on the ground that sub-rule (10) of Rule 5 of Bihar Land Mutation Rules, 2012 don't permit to mutate the land which is not in possession of the parties, seeking mutation.

11. Next question arises, as to whether, this Court in exercise of jurisdiction under Article 226 of the Constitution of India, if, in alternative, the vendor of the petitioner is not in possession of the land in question, can restore the possession?

12. In this regard, I find that the similar issue fell for consideration before the Patna High Court in the case of *Smt. Indrawati Devi v. Bulu Ghosh*, reported in *1988 BBCJ (HC) 307*, wherein the Patna High Court held that the inherent power of the Court are meant to be exercised in such situations where nothing is more demoralising to a law abiding citizen than to be



told by the Court that it is helpless in the matter of the affording him any protection even when his adversary has acted with impunity, contrary to all known legal procedures and that too after submitting to the Courts jurisdiction. To tolerate such an injustice would itself amount to perpetrating injustice in its most blatant form.

13. This Court, in the case of *Hindustan Petroleum Corporation v. State of Bihar*, reported in *1996 (2) Pat LJR 621 : (AIR 1996 Pat 163)*, granted relief of restoration of possession in a case under writ jurisdiction.

14. In another case of *Smt. Manju Devi v. State of Bihar*, reported in *1999 (2) Pat LJR 641*, this Court, while discussing the power conferred under Article 226 of the Constitution of India, held that the rule of law is the very basis of the constitutional system, which cannot be sacrificed on any equitable consideration. Even for a defaulter tenant such mode cannot be allowed to evict him, defies the system of administration of justice under the laws of the land and such relief can be granted. In the said case, the possession of the disputed shop was restored by the High Court in a case under Article 226 of the Constitution of India.

15. The Apex Court in the case of *Samir Sobha*



*Sanyal v. Tracks Trade Private Ltd. and Ors.*, reported in **1996 (4) SI CC 144**, held that the law should be strictly adhered to high-handedness action of the parties in having the appellant of the said case dispossessed without due process of law, cannot be overlooked nor condoned. The Court cannot blink at their unlawful conduct to dispossess the person from the demised property and would say that the status quo be maintained. If the Court gives acceptance to such high handed action, there will be no respect for rule of law and unlawful elements would be taken hold of the due process of law for ransom and it would be a field day for anarchy. Due process of law would be put to ridicule in the estimate of the law-abiding citizens and rule of law would remain a mortuary. In the said case, the respondents were directed to put the appellant in possession within 24 hours.

16. From the order impugned, it is evident that the vendor of the petitioner has not been able to be heard and it has been stated on behalf of the petitioner that her vendor was in possession of the property which has been executed in her favour. It is also not a case that the government possesses interest in the said piece of land or the said land was acquired by the government for settlement of the persons, who according to the finding of the Circle Officer based on the report of the



*Karamchari* has not been allotted any part of land by the government. The petitioner is entitled for protection of her right guaranteed under Article 300A of the Constitution of India, who has purchased the land described in above background by a valid sale deed and as such the Circle Officer cannot reject the application for mutation for which vendor of the petitioner was in possession and was making payment of rent to the Government of Bihar in respect of possession over the land in question.

17. In this regard, I find it proper to quote the Article 300- A of the Constitution of India, which states that “*No person shall be deprived of his property save by the authority of law.*” The State cannot disposes a citizen of his property accept in accordance with law and procedure prescribed. The obligation to pay compensation is not expressively included in Article 300-A of the Constitution of India can be inferred in that Article. The law in this regard is well settled by the Apex Court in case of *Vidaya Devi Vs. The State of Himachal Pradesh & Ors.* reported in *2020(2) SCC 569*, I find it proper to quote the para-12.1 and 12.2 of the said judgment, which are *inter alia* reproduced hereinafter;

*“12.1. The appellant was forcibly expropriated of her property in 1967, when the right to property was a fundamental right guaranteed by Article 31 in Part III of*



*the Constitution. Article 31 guaranteed the right to private property [State of W.B. v. Subodh Gopal Bose, (1953) 2 SCC 688 : AIR 1954 SC 92] , which could not be deprived without due process of law and upon just and fair compensation.*

*12.2. The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however, it continued to be a human right [Tukaram Kana Joshi v. MIDC, (2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491] in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article. [K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414]”*

18. The Apex Court dealing with the similar facts where the State is required to make payment of due compensation in ***Tukaram Kana Joshi v. MIDC***, reported in ***(2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491*** has held as under;

*“11. There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory dues, claim for educational facilities and other categories of similar cases, etc. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental right has been violated, under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The functionaries of the State took over possession of the land belonging to the appellants without any sanction of law. The appellants had asked repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode.”(emphasis supplied)*

19. The proposition of law laid down in the case of ***Vidaya Devi (Supra)*** again reiterated by the Apex Court in the



case of *Sukhdutt Ratra & Anr. Vs. State of Himachal Pradesh & Ors.* reported in *2022LiveLaw(SC)347* in which dealing with the right of a citizen enshrined under Article 300- A held that due compensation is required to be paid by the reiterating the law laid down by the Apex Court in the case of *Tukaram Kana Joshi (Supra)*. The Apex Court held that the State must comply with the procedure for acquisition, requisition, or any other permissible statutory mode. The State being a welfare State governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution.

20. Long possession of the vendor and mutation of *jamabandi* in favour of the grandfather of the vendor of the petitioner itself shows that the Circle Officer has tried to modify the order passed by the DCLR which has resulted in manifest illegality resulting into miscarriage of justice. The *karamchari* and the Circle Officer can be held responsible for having committed fraud with the revenue records in garb of the provision of sub-Rule (10) of Rule 5 of Bihar Land Mutation Rules, 2012 in absence of reasoned order. Accordingly, the impugned order dated 03.12.2025 is quashed and set aside.

21. The District Magistrate, Sitamarhi is directed to constitute a three-member-committee, in which one of the



officers is required to be of the rank of ADM and two members must be of rank of Deputy Collector for holding an inquiry over the land in question and see, as to whether, the persons who are in possession of the land, which the petitioner has purchased, have any title over the said land and if they have no valid title, then in that case, he must exercise his jurisdiction in accordance with law to get the land vacated, so that peaceful possession of the land can be handed over to the petitioner.

22. In the meantime, the petitioner may avail appropriate remedy.

23. The writ petition is, accordingly, disposed of.

24. Interlocutory Application(s), if any, also stands disposed of.

**(Purnendu Singh, J)**

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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