IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.228 of 2021

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1. Shyam Kishore Sharma @ Shyam Kishore Hazari, Son of Late Ram Ratan Sharma @ Bambholi Hazari, Resident of Village- Tetari, P.S.- Dandari, District- Begusarai, Presently residing at Ward No. 36, Pokharia, Begusarai, P.S. and District- Begusarai.
2. Krishn Murari Kumar, Son of Sri Kamal Nayan Sharma, Resident of Village- Tetari, P.S.- Dandari, District- Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer (Planning, Monitoring and Underground), Minor Water Resources Department, Bihar, Patna.
4. The Superintending Engineer, Minor Water Resources Circle, Begusarai.
5. The Executive Engineer, Minor Water Resources Division, Begusarai.
6. The Collector, Begusarai.
7. The Circle Officer, Dandari, District- Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh, Advocate
Mr. Uday Kumar, Advocate

For the Respondent/s : Mr. Nadim Seraj, GP-5
Mr. Nalin Vilochan Tiwary, AC to GA-9

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
C.A.V. JUDGMENT

Date :14-05-2026

Heard the learned counsels for the parties.

2. The petitioners have prayed for the following relief:-

"*a) For grant of an appropriate writ for a direction to the respondents to pay to the petitioners*

the cost for filling earth in the excavated portion of the private lands of the petitioners (plot no. 1702 under khata No. 113 situate in village Tetari, PS- Dandari, Dist. Begusaral) illegally dug by the respondents in the name of 'Ground Water Recharge/ Irrigation Scheme' and renovation of dilapidated traditional source of water under "Jal Jeevan Hariyali Abhiyan" of the State of Bihar.

b) For grant of an appropriate writ for a direction to the respondents to pay to the petitioners and others whose lands have been illegally excavated the compensation for the damages caused to the land and crop.

c) For grant of an appropriate writ for a direction to the respondents to desists from treating the private agricultural land of the petitioners as 'sairat' and to desists from settling the same with any person for fisheries or other purposes."

3. The petitioners have also prayed for quashing the order dated 10.01.2026 passed by the Additional Collector, Begusarai, in Jamabandi Cancellation Case No.44/2021-22 (off line)/Case No.55/2022-23 (on line), whereby the different Jamabandies created with respect to Khesra No.1702 measuring 40.34 acres under Khata No.113 situated in village Tetari, Anchal Dandari, District Begusarai, were cancelled. The said prayer was made through I.A. No.1 of 2026, as the aforesaid order was passed during the pendency of the present writ

application.

4. The present writ application, under Article 226 of the Constitution of India, has been preferred by the petitioners for a direction to the respondents to pay them the cost for filling *Earth* in the excavated portion of the private lands of the petitioners, bearing Plot No. 1702 under Khata No. 113, situate in Village-Tetari, P.S.-Dandari, District-Begusarai, which was illegally dugged by the respondents in the name of "Ground Water Recharge/Irrigation Scheme" and renovation of dilapidated traditional source of water under *"Jal Jeevan Hariyali Abhiyan"* of the State of Bihar.

5. The facts giving rise to the present writ application is to the effect that the land, bearing Khesra/Plot No. 1702 under Khata No. 113, situate at Village-Tetari, P.S.-Dandari, District-Begusarai, measuring 40.34 acres (49 Bighas, 18 Kathas and 14 Dhurs), as per the *Khatiyan*, was recorded as *"Gairmazarua Khas"* land of the Ex-Zamindar under Old Tauzi No. 629. In the year 1912, Bibi Aisha, descendant of the Ex-Zamindar, transferred her interest in the said Tauzi Nos. 7790 and 7792 (old Tauzi No. 629) of Village-Tetari, measuring 49 Bighas, 18 Katthas and 14 Dhurs, to Bhadri Hazari through a registered sale-deed, who, thereafter, came into possession over

the same. However, in the year 2020, the Circle Officer, Dandari issued a notice alleging that the nature of the lands in question, having Khesra No. 1702, was *"Gairmazarua Khas" ('Sairat')* and initiated proceedings for cancellation of *Jamabandis*, claiming that such lands cannot be settled with individuals. Despite objections having been filed by the petitioners, asserting private ownership and possession, the authorities proceeded to treat the lands in question as Government lands. Under the *"Jal Jeevan Hariyali Abhiyan"*, the respondents-State undertook excavation work over more than 20 acres of the disputed land for the purposes of water conservation while ignoring the objections and pending grievances. The petitioners contended that the lands are neither river, nala, pond, nor recorded as *'Sairat'*, but are their private *Raiyati* lands. The petitioners, thus, claimed that the respondents-State have illegally excavated their private lands and are liable for their restoration.

6. The learned counsel appearing on behalf of the petitioners submits that in the year 1912, Bibi Aisha, descendant of the Ex-Zamindar, transferred her interest in the said Tauzi including Khesra No. 1702, to Bhadri Hazari through a registered sale-deed, who, thereafter, came into possession over

the same. In the year 1944, said Bhadri Hazari settled portions of the lands in favour of several persons for which *Jamabandis* were created and rent was regularly paid to the State. It has been submitted that subsequently through registered sale-deeds and relinquishment *(Ladavi)* deeds, different portions of the lands were transferred among successors and transferees including the petitioners or their predecessors and since then, the *Jamabandis* continued in their names and they remained in cultivating possession, growing crops and paying rent regularly to the State of Bihar.

7. The learned counsel for the petitioners submits that a portion of Khesra No. 1702 was acquired in 1954-55 for the construction of Gandak River Bandh and compensation was paid to the recorded *Raiyats*. Further, in the year 2019, GAIL (India) Ltd. acquired part of the lands under the Petroleum and Minerals Pipelines Act, recognizing the *Raiyati* nature of the lands. It has been submitted that Khesra No. 1702 is cultivable land and both *Kharif* and *Rabi* crops are grown therein and the different transferees of Khesra No. 1702 including the petitioners or their ancestors are/were in possession of their respective shares in the transferred lands and are paying rent regularly to the State of Bihar.

8. It has been submitted on behalf of the petitioners that the Chief Engineer (Planning, Monitoring and Underground), Minor Water Resource Department, Govt. of Bihar, Patna, on 14.09.2019, issued notice inviting Tender No. 6/2019-20 for ground water recharge/irrigation scheme under *"Jal Jeewan Hariyali Abhiyan"* for excavation/renovation of ponds, 'Aahar', 'Pain', etc. in the State of Bihar, which included "Tetari Moin" within Dandari Block at Serial No. 170 and then the Circle Officer, Dandari, after about 70 years of creation of *Jamabandis* in favour of the ancestors of the petitioners, issued a notice dated 04.03.2020 to the heirs and descendants of Ambika Hazari, Harihar Hazari, Ram Kripal Hazari, Chhotu Hazari, Bambholi Hazari, Bhadri Hazari, and Rameshwar Singh, regarding cancellation of *Jamabandis* created in favour of the transferees of Bhadri Hazari and their subsequent transferees. The notice stated that Khesra No. 1702 is recorded as *"Gairmazarua Khas Man"*, identified as *'Sairat'* lands under Dandari, Begusarai.

9. It has next been submitted that an objection was filed with respect to the said notice stating that the lands were private lands of Ambika Hazari and others. It has been submitted that the authorities failed to consider the objections

filed by the petitioners and started excavating a portion of the lands of Khesra No. 1702 belonging to the petitioners and others. It has further been submitted that the lands in question are neither river, nor nala, nor pond, nor road and it was never recorded as *'Sairat'* in the *'Sairat'* Register. It has been submitted that the lands in question are the private lands of the petitioners and it was used for cultivation and *Jamabandis* with respect to the same have been rightly created in favour of the petitioners.

10. The learned counsel for the respondents-State, referring to the counter affidavit filed on behalf of respondent No. 2 to 5, submits that the lands in question, bearing Khesra No. 1702 under Khata No. 113 situate in Village-Tetri, P.S.-Dandari, District-Begusarai is recorded as *"Gairmazaura Khas"* land of Ex-Zamindar under old Tauzi No. 629. It has been submitted that the Circle Officer, Dandari (Begusarai) sent a notice to several persons on 04.03.2020, as mentioned in the letter to cancel their rent receipts and informed them that the land under Mouza-Tetri, Khata No. 113, Khesra No. 1702 defines nature of land being *"Gairmazura Khas"* lands and the lands in question was marked as a *'Sairat'* land. Thus, the rent receipts *(Jamabandis)* taken by them and others upon the lands

in question are not legal and justified according to the Revenue Department.

11. The learned counsel for the respondent-state submits that in order to issue a writ, the petitioner himself has to make a clear demand as to enforcement of legal right to the officer having the requisite authority to perform the said demand and furthermore, the authority against whom mandamus is sought must have rejected the earlier demand. The learned counsel for the respondent-state relies on “Juman Lal Dewangan v. State of Chattisgarh” WP(S) no.599 of 2107, paragraphs '3' and '4'.

12. The Learned counsel for the respondents-State submits that letter issued under the signature of the Circle Officer, Dandari on 04-03-2020 shows that upon such lands, the Animal Husbandry and the Department of Fisheries, Govt. of Bihar, continuously issued a Bid in favour of *Jalkar*.

13. The learned counsel for the respondents-State, referring to the counter affidavit filed on behalf of respondent Nos. 6 & 7, submits that the lands in question were vested with the State of Bihar after vesting of *Jamindari* rights, as ex-land lord has not submitted return with regard to the lands in question in the name of any person. The Circle Officer, Ballia

on behalf of the State of Bihar used to settle the land for fishery purposes, which is fortified from the *Sairat* Register. It has next been submitted by the respondents stating that the petitioner has not stated as to what area of Khesra No. 1702 was transferred by Bhadri Hazari and how the *Jamabandi* was created with regard to this land.

14. The learned GA relies upon an order rendered by Hon'ble Apex Court in the case of ***Vinod Gandhi v. The District collector, Madurai & Ors.,*** the relevant paragraph of the said order has been reproduced for ready reference:

> *"**5.** Learned counsel for the respondent no.1 submitted that the land in the records of the State was never settled in favour of the original person in the year 1950, as no records are available. However, it was contended that there were subsequent revenue entries to show the entry of the names of the predecessor-in-interest of the vendor of the petitioner. It was contended that because the matter could not be dealt with in the manner it was required and the land being State land, that too, a water body, it is in the general interest of the State and the public that one opportunity be given to finally thrash out the issue."*

15. Thus, the learned GP-5 has summarized his

arguments to the extent that the petitioners did not approach any of the Authorities by filing any representation and therefore, any direction for issuance of mandamus cannot be granted. It has next been submitted that the petitioners have an alternate remedy of appeal and they had also preferred the same against the order cancelling their jamabandi, which is pending, therefore, interference in such proceedings is not warranted. Thirdly, the disputed question of fact is involved in the present case and therefore, the only remedy which lies before the petitioners is to approach a competent Civil Court for getting the same resolved. It has also been submitted that in view of the judgment in the case of Vinod Gandhi (Supra) since the land in question is a jalkar and therefore, the same could not have been transferred in favour of the ancestors of the petitioners and on such account also, the writ petition is fit to be dismissed.

16. The learned counsel of the petitioners, in reply to the counter affidavits filed on behalf of respondent Nos. 2 to 5 and respondent Nos. 6 and 7, submits with regard to Annexure-A to the counter affidavit filed on behalf of respondent Nos. 2 to 5 that the subject matter of the dispute in the instant case is Khesra No. 1702 in Village-Tetari, the total area whereof is 40.3 acre (equivalent to 49 Bighas, 18 Katthas

and 14 Dhurs), whereas Annexure-A shows that *"Tetari Moin"*, which according to the respondents-State is the subject matter of the dispute in the instant case is in Khesra No. 761, measuring 5.83 acres only, which is definitely not the subject matter of the instant case which is the *'Raiyati'* lands of the petitioners and others. *"Tetari Moin"*, which is said to be settled by the respondents-State authorities is apparently some other land and not the lands of the petitioners and others, which have been illegally excavated under *"Jal Jeevan Hariyali Scheme"* by the respondents-State authorities by illegally treating it as Government lands.

17. The learned counsel for the petitioners submits that in Annexure-3 of the writ petition, it is stated that the Circle Officer, Dandari, without any basis, stated that the land *('Sairat')* had been continuously auctioned by the Fisheries Department. From the said Annexure, it would further appear that *Jamabandis* of Khesra No. 1702 are running in the names of different persons, who are transferees from Bhadri Hazari and their subsequent transferees.

18. It has further been submitted on behalf of the petitioners that the statements made in Paragraph 8 of the counter affidavit filed on behalf of respondent Nos. 2 to 5, it is

stated that the settlement of *'Jalkars'* for financial years 2018-19, 2019-20 and 2020-21 are with respect to some other *'Jalkars'* and are not the lands in question. Thus, the amount for *'Jalkar'*, which has been settled for Rs. 26,000/- per year also shows that it is not with respect to the lands in dispute, as the total area of the land in dispute is 40.34 acres and such land cannot be settled for such meager amount.

19. The learned counsel for the petitioners by referring to the supplementary affidavit filed on behalf of the petitioners submitted that the respondents-State, after filing counter affidavits in the present writ petition, have constructed a culvert on the lands of the petitioners and are planning to sink a tube-well for filling water in the excavated portion of the lands in question. It has next been submitted that the respondents-State are, thus, bent upon to change the topography of the subject lands and to make it un-arable. It has further been submitted that in the aforesaid circumstances, the respondents-State are liable to further compensate the petitioners for the losses caused to them by constructing culvert on the lands of the petitioners and for other damages caused to the arable lands of the petitioners and others.

20. This Court has heard the learned counsel for

the parties at length and from the averments made in the writ petition as well as the counter affidavits filed by the respondents, one question which has emerged is as to whether the land in question of the petitioners was being used by the State under the *Sairat* settlement. The petitioner has harped upon the fact that the land in dispute, i.e., Khesra No. 1702 falling under Khata No. 113, is a huge piece of plot as per the Khatiyan, measuring 40.34 acres, which is equivalent to 49 bigha, 18 katha and 14 dhur.

21. The State, on the other hand, has contended two facts disputing the claim of the petitioner. One being the nature of land is entered as *gairmajarua khas* land and was marked as a sairat land. Subsequently, the said land was being settled by the Animal Husbandry and Fishery Resource Department, Government of Bihar, Patna, by issuing a bid in favour of the *Jalkars*. It has, thus, been contended by the State that in view of such facts the land could not belong to the petitioners and therefore, the contentions of the petitioners are false, concocted and baseless.

22. This Court, from perusal of the records, found that in the list of the *jalkars*, which was brought on record by the State through its counter affidavit, marked as Annexure-A,

the reference of the *jalkar*, namely, *Tetari Moin* is listed at serial No.12 and the area of the land is mentioned as 5.83 acres. On fine perusal, it was also noticed that though the khata number is 113, however, the khesra (plot) number is 761, while the land in question is Khesra No.1702. The petitioners in their rejoinder have contended that the land in question was transferred by the ex-zamindar in the year 1912 through a registered sale deed, while the said purchaser from the ex-landlord had subsequently transferred the portions of Plot No.1702 to different persons, including the ancestors of the petitioners and their specific contention is that the land might have been recorded as "Moin" in the cadastral survey land, however, in due course the nature of the land changed and it began to be cultivatable.

23. This Court has noticed that it was only during the pendency of the present writ application that the State found/discovered the fact that the Khesra No.761 as given in the jalkar list was wrongly entered in place of Khesra No.1702. The contention of the State about the reference of Khesra No. 1702, which actually measures 40.43 acres, being settled for a meager amount of Rs.20 for the year 1973-74 and Rs.26,000/- in the year 2021 cannot be accepted. Moreover, as already noticed, the area mentioned in the *jalkar* list of "Tetari Moin" is stated as

around 5 acres. These discrepancies raises a doubt over the manner in which the State has acted.

24. From perusal of Annexure-6, which has been brought on record by the petitioners, refers to the report by the *Karamchari* given to the Circle Officer, Dandari, wherein he has categorically mentioned that Keshra No.1702 though is entered in the khatiyan as “Moin”, however, the said keshra was never settled. From the perusal of Annexure-6, one more fact had emerged that while marking the inspection, the *Halka Karamchari* was told by the persons in whose favour *jalkar* were settled that they had been fishing from the land falling under Khesra No.1702, however, the petitioners had categorically said that the said fishermen were allowed to fish from the said land after taking compensation, as the said land is inundated for almost four to five months in a year and once the water dries, the raiyats, including the petitioners, use the said land for agricultural purposes.

25. Thus, from the readings of the various documents as also from the pleadings made therein, this question as to whether the said land was being settled for the past many years for *jalkars* is not substantiated, from the perusal of the sairat register, especially for the fact that the khesra

number was admitted to being referred as 761.

26. The other aspect with regard to the entries in the khatiyan with respect to the nature of the land in question, which has been referred to as “Man (मन)”, again, two meanings can be derived from such entries. As per the definition of “Man (मन)” it refers to low-lying areas, typically perennial or seasonal wetlands or shallow tanks or ponds used for storing water.

27. In the present case, admittedly, the khatiyan suggests that the entry was *gairmajarua khas* with the name of Chaudhary Babu Nurool Hoda and other. This denotes that the said land can be raiyati land owned by an individual, thus, from the above, it is clear that the entries referred to in the *khatiyan* and subsequent alienation of the land by the zamindar and ultimately to the petitioners and others goes on to show that the land in question was being used initially by the ex-zamindar and thereafter by the persons, who had purchased from the ex-zamindar and others and was subsequently transferred to the petitioners and others.

28. The contention, thus, of the petitioners that the land was not a *jalkar* in the true sense seems to be reasonable and if the *jamabandi* created in favour of the petitioners and others have been cancelled by the authorities, it thereby cancels

also the sale deed executed in their favour. It also nullifies the settlement made by the ex-zamindar in favour of the vendors of the petitioners.

29. It is a settled law that long-standing *jamabandi* cannot be set aside by a Revenue Authority in the name of wrong creation of *jamabandi* and moreover they have not come out with a clear stand as to how the Khesra number was changed during the pendency of the present application.

30. At this juncture, this Court is of the view that the judgment rendered by this Court in the case of ***"Maya Devi & Ors. Vs. The State of Bihar & Ors.***, reported in ***(2014) 3 PLJR, 584"*** is relevant in the present facts and circumstances of the case.

31. This Court has taken note of the fact that while the present writ application was pending and the State was being asked to file counter affidavits and supplementary affidavits and during the pendency and despite this Court being *in seisin* of the matter, passing of the impugned order dated 10.01.2026 does not only amount to overreach of judicial propriety but would also suggest that the authorities were trying to influence the result of the present case.

32. One paragraph of the aforesaid judgment

passed in the case of ***Maya Devi (Supra)*** is to be taken note of :-

> *"The result of these three progressive stages is that if the State wants the petitioners' lands or the lands on which the petitioners have been residing for last 50 years, they must pay due compensation and take action in accordance with the provisions of the new Land Acquisition Act. If they intend to cancel the Jamabandi then it is for them to move the Civil Court for a declaration that the alleged settlement and/or Jamabandi is illegal and cannot be accepted and let the title of the State be so declared but till such time the dispute is resolved, the petitioners cannot be evicted by the State in any manner nor can just compensation for acquisition be denied."*

33. One of the submissions made by the learned State counsel with regard to the maintainability of the present writ application stating that there is an alternate statutory remedy available to the writ petitioners, it is a well-settled law that merely there being an alternate statutory remedy does not preclude the writ petitioners from filing a writ petition entertaining such prayers of the writ petitioners wherein they have challenged the lack of jurisdiction of the Authorities in cancelling the longstanding jamabandi in favour of the writ petitioners. It is a well-settled law that merely there being an alternative statutory remedy does not oust the jurisdiction of a

Writ Court.

34. At this juncture, the case of ***Rikhab Chand jain v. Union of India & ors.*** reported in ***2025 SCC OnLine 2510*** can be looked into, in which the Hon'ble Supreme Court has observed in paragraphs '7' and '10' which is a follows:

> *"**7.** Decisions of this Court are legion from which guidance can aptly be drawn as to when a writ petition ought to be entertained despite the party approaching the high court not exhausting the alternative statutory remedy available to him/her/it. Insistence by the courts – both this Court and the high courts – of exhaustion of a statutory remedy provided by an enactment before invoking the writ jurisdiction of a high court under Article 226 of the Constitution can be traced to one of several self-imposed restrictions, laid down by judicial precedents of this Court. Unless, of course, any of the exceptions [challenge to an act/order grounded on (i) breach of a Fundamental Right; (ii) violation of natural justice principles; (iii) lack of jurisdiction; and (iv) unconstitutionality of a statute] is satisfied, that a writ court may refuse to entertain a writ petition does not admit of any doubt. This Court relying on a host of decisions including State of Uttar Pradesh v. Md. Nooh8 and Titaghur Paper Mills v. State of Orissa9 has, in Godrej Sarah Lee v. Excise and Taxation Officer-cum-Assessing Authority10, reiterated that availability of an alternative*

statutory remedy does not oust the jurisdiction of a writ court. It was also explained how "entertainability of a writ petition" is a concept distinct from the concept of "maintainability of a writ petition".

10. *We may profitably refer, in the context, to the Constitution Bench decision in Thansingh Nathmal v. Superintendent of Taxes. In Thansingh Nathmal v. Superintendent of Taxes, this court had the occasion to lay down a principle of law which is salutary and not to be found in any other previous decision rendered by it. The principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. The relevant passage from the decision reads as follows (page 474 in 15 STC):*

> *"…. The jurisdiction of the High Court under article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain*

self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or Tribunal, to correct errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up."

(emphasis Ours)

35. In the present case the petitioners had approached this Court for a direction to the respondents to pay the petitioners the cost for filling the earth in excavating the portion of the private lands of the petitioners and also for payment of compensation for the damages caused to the land and crop and further for treating the private land of the petitioners as agricultural lands and desisting from settling the same for fisheries. Such prayers, to the understanding of this Court, can only be granted by a Writ Court if the writ petition is going to be allowed and moreover, as far as the cancellation of jamabandi is concerned, the same was done overreaching the Authority of the officer concerned, as he was well aware of the fact that the present writ application was pending and even counter affidavits were filed, still the jamabandi was cancelled.

36. From perusal of the record, this Court finds that the writ application was entertained initially by this Court and directions were issued for filing counter affidavit and since more than five years have passed since the filing of the present writ application, therefore, relegating the petitioner before the authorities would serve no purpose and moreover, the Authorities despite being aware of the pendency of the

application as having cancelled the jamabandi standing in the name of the petitioners unilaterally goes on to show that the Authorities were bent upon to prove that the land in question belongs to the State of Bihar, which was being settled for fishing.

37. It is a well-settled law that when a dispute is pending before a Court of Justice no action should be taken by an Authority which would disturb the Court of Justice. It would be apt to refer to the Full Bench judgment of this Hon'ble Court passed in the case of ***The King vs. Parmanand and Others,*** reported in ***AIR (36) 1949 Patna 222***, paragraph '23' of the said judgment observes as under:-

> *".....It is a cardinal principle that when a matter is pending for decision before a Court of justice nothing should be done which might disturb the free course of justice and this Court will discountenance any attempt on the part of any executive official, however high he may be, to prejudge the merits of a case and to usurp the functions of the Court which has got seisin of the case....."*

38. In view of the aforesaid, the passing of the impugned order dated 10.01.2026 is held to be truculent and amounts to overreaching the authority and also, in view of the aforesaid judgment, is held to be illegal and therefore is set

aside.

39. I.A. No.1 of 2026 is allowed.

40. The State is directed to replace the earth which has been excavated from the portion of the private lands of the petitioner and any boundary constructed out of from the said soil shall be refilled on the lands of the petitioners.

41. The State, if aggrieved by the creation of the *jamabandi* in favour of the petitioners, can move a Court of Civil jurisdiction for setting aside the sale deed executed in favour of the petitioners and the previous land owners.

42. The writ application is allowed.

(Sourendra Pandey, J)

manoj/-

AFR/NAFR	NAFR
CAV DATE	10.04.2026
Uploading Date	15.05.2026
Transmission Date	N/A