

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W.P. (C) No. 4786 of 2017**

1. Ramchandra Sahu, S/o Late Fanindra Sahu
2. Rajkishore Sahu, S/o late Fanindra Sahu
3. Radheshyam Sahu, S/o, late Fanindra Sahu  
 All residents of village- Nawagarh, P.O.- Raidih, P.S.-  
 Raidih, Dist.- Gumla, Jharkhand ..... Petitioners

Versus

1. State of Jharkhand , through the Deputy Commissioner,  
 Gumla, At - P.O. & P.S.- Gumla, Jharkhand
2. The Circle Officer Raidih, at Raidih, P.O.- Nawagarh, P.S.-  
 Raidih, Dist.- Gumla, Jharkhand
3. Balbhadra Sahu, S/o late Rungtu Sahu
4. Sahodar Sahu, S/o late Rungtu Sahu
5. Santosh Sahu, S/o late Loknath Sahu
6. Satish Sahu, S/o late Loknath Sahu
7. Birendra Sahu, S/o late Udaypal Sahu
8. Vivek Sahu, S/o late Udaypal Sahu  
 All residents of village- Nawagarh, P.O.- Raidih, P.S.-  
 Raidih, Dist.- Gumla, Jharkhand ..... Respondents

For the Petitioners : Mr. Rahul Kr. Gupta , Adv.  
                           Mr. Shailendra Kr. Tiwari, Adv.

For the Respondents : Mr. Sanjay Kr. Tiwari, SC I.  
                           Mr. Sachin Kumar, AC to SC I.  
                           Mr. L.C.N. Shahdeo, Adv.

**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

**By the Court:-** Heard the parties.

2. This writ petition has been filed invoking the jurisdiction of this court under Article 226 of the Constitution of India, with a prayer for issuance of an appropriate writ, order or direction in nature of *certiorari* for quashing the order dated 12.06.2017 passed by the Deputy Commissioner, Gumla in Revenue Revision no. 38 of 2014-15, whereby and where under the Deputy Commissioner, Gumla has allowed the Revenue Revision petition no. 38/2014-15 and set aside the order dated 09.10.2014 of Mutation appeal No. 04 of 2014

passed by D.C.L.R., Gumla whereby the order D.C.L.R., Gumla set aside the order dated 31.10.2013 passed by the Circle Officer, Raidih in Mutation Case no. 42 (R )27 / 2013-14, by which the order of mutation was passed in favour of respondent nos. 3 to 8.

3. Learned counsel for the petitioners submits that the case of the petitioners is that the grandfather of the petitioners namely Bhola Sahu got the land which is the subject matter of this writ petition; settled, from the ex-landlord by a registered deed of *Kabuliyat*, which was subsequently settled by *Hukumnama*. Hence, Bhola Sahu and thereafter, his sons and grandsons are having absolute right, title and possession of the land bearing RS plot no. 1720, Khata no. 41 of village- Nawagarh, area 2.18 Acre, hereinafter, referred as 'case land'. It is the further case of the petitioner that on vesting of the Zamindari, the Zamindar submitted return and the revenue authority recognized the right, title and possession of Bhola Sahu and created *Jamabandi* in his name and opened Register II. Accordingly, on payment of revenue, government issued revenue rent receipt in the name of the Bhola Sahu alone. In the year 1980, the government acquired some portion of the land from Bhola Sahu for construction of road and Bhola Sahu was paid compensation of Rs. 4336/- in Land Acquisition Case no. 29 of 1957-58. In the year, 1981, there was a survey operation, in which , the brothers of Bhola Sahu namely Rungtu Sahu and Deonath Sahu who are respectively the father of the private respondents, fraudulently, influenced the survey authority and inserted their names by showing the forged *panchyati* deed of the partition, which was held to be forged by the Assistant Settlement Officer, in proceeding before him and the said order of the Assistant Settlement Officer, in survey objection case no. 31 of 1981 dated 02.12.1981 deleting the name of Rungtu Sahu and Deonath Sahu from the revenue records has not been challenged and thus has reached finality. As in the year 2014, the respondent no. 3 to 8 were trying to enter upon the land, by showing the joint revenue rent receipt in the name of Bhola Sahu and others, the petitioners

enquired the matter and found that the Circle Officer, Raidih has passed the order dated 31.10.2013 in Mutation Case no. 42R27/2013-14 without giving opportunity to be heard to the original Jamabandi holders, i.e. the petitioners and also without following the provision of law of mutation. It is asserted by the petitioners that the respondent no. 2 has only jurisdiction to mutate the name on the basis of the succession, partition, and transfer. The respondent no. 3 to 8, applied for mutation on the ground of succession, by showing forged deed of partition, claiming themselves to be the successor of the *Jamabandi Raiyat*. The Circle Officer, Raidih being the respondent no. 2 passed the order that respondent nos. 3 to 8, are the heirs of the *Jamabandi Raiyats* and on that basis, mutation was allowed. It is submitted that though the respondent nos. 3 to 8 are not the direct descendants of Bhola Sahu rather the petitioners are the only direct descendants and thus heir of Bhola Sahu. The petitioners asserted that there was no partition between the ancestors of the petitioners and the ancestors of respondent no. 3 to 8, which has already been held, as such by the Assistant Settlement Officer and which has reached finality. The Jamabandi in the name of Bhola Sahu was running from 1934 to 2013 which could not have been interfered with by the Circle Officer. The petitioner filed the Mutation Appeal No. 04 of 2014 and the D.C.L.R. /SDM, Gumla. After through enquiry of the record and after hearing the parties, the D.C.L.R. /SDM, Gumla set aside the mutation order of the Circle Officer vide his order dated 09.10.2014 in Mutation Appeal No. 04 of 2014. The respondent nos. 3 to 8 filed a revision before the Deputy Commissioner, Gumla and though the complicated question of succession and partition, cannot be decided in mutation proceeding and as such, revisional authority, has no jurisdiction to enter into the merits of the claims of the parties, once it was clearly demonstrated before it that no notice was served upon the petitioners, by the Circle Officer and the same itself was sufficient to dismiss the revision, but the Deputy

Commissioner, having illegally set aside the said order passed by the D.C.L.R. /SDM, Gumla; it is submitted that the order dated 12.06.2017 passed by the Deputy Commissioner, Gumla in Revenue Revision no. 38 of 2014-15, be quashed and set aside.

4. Learned counsel for the respondents no. 3 to 8, on the other hand, submits that no illegality has been committed by the Deputy Commissioner, Gumla in passing the impugned judgment dated 12.06.2017 in Revenue Revision no. 38 of 2014-15. It is further submitted that Bhola Sahu being the eldest son, was assisting his father in Zamindari work, as per the prevalent custom. The father of Bhola Sahu namely Laldhar Sahu, acquired the land in the name of his eldest son Bhola Sahu by virtue of registered *Kabuliyat* for the purpose of making house and Bari for the benefit of his family. Laldhar Sahu constructed residential house over the 'case land' and Bhola Sahu did not raise any objection at the time of the said construction and the rent was paid to the ex-landlord from the family income and after vesting of the estate, correction slip has been issued in the name of all the three brothers vide Mutation case no. 2 / 1957-58 and the said correction slip was given by Bhola Sahu to Rungtu Sahu, so the land in question was a joint property of Bhola Sahu, Rungtu Sahu and Deonath Sahu. After 1965, all the three sons of Laldhar Sahu started to live separately and they also started their occupation and cultivation separately for the sake of convenience; in order to avoid any future litigation. The Circle Officer after complying with all the rules and regulations as contained in Bihar Tenant Holding and Maintenance of Records (Act), rightfully mutated the land in favour of the respondent no. 3 to 8, with respect to the land in question in revenue record. It is next submitted that the Deputy Commissioner has properly considered the fact of the case, materials available in the records, as well as the relevant provisions of law and rightly allowed the revision, hence, this writ petition, being without any merit be dismissed.

5. Learned counsel for the respondent no. 1 and 2 also defends the impugned order.
6. Having heard the submissions made at the bar and after carefully going through the materials available in the record, the undisputed fact remains that the Circle Officer has not issued, notice to the petitioners, who were undisputedly the class I heirs of Fanindra Sahu, who was the only son of Bhola Sahu in the proceeding. It is also the undisputed fact that the revenue record was running in the name of Bhola Sahu from 1934 to 2013. It is further the undisputed fact that the Assistant Settlement Officer, vide his order dated 02.12.1981 in Survey Objection Case No. 31 of 1981, has held that *panchayati* deed of partition to be a forged one and such finding has reached finality, the same having not been challenged by the ancestors of the respondent no. 3 to 8 being Rungtu Sahu and Deonath Sahu. The Circle Officer, behind the back of the petitioners, by not issuing them the notice, has relied upon the forged partition deed, which has been held to be forged, as such by a competent authority being the Assistant Settlement Officer in Survey Objection case no. 31 of 1981 and mutated the names of the respondent no. 3 to 8; on the basis of the said deformities partition deed and these facts, itself, are sufficient to set aside the order passed by the Circle Officer which has rightly been set aside by the D.C.L.R./ SDM, Gumla in Mutation Appeal No. 04 of 2014. The Deputy Commissioner, Gumla without taking all these facts before it, has casually observed that possibility of the court below meaning thereby, D.C.L.R. having passed the order without taking into consideration the relevant facts, cannot be ruled out and has also casually mentioned that the fact that in Title Suit No. 01 of 2015 and 02 of 2015, the 'case land' has not been included, raises a question mark and thus, without giving any finding, has committed perversity by exceeding his jurisdiction of a revisional court, and has erroneously set aside the order of D.C.L.R. in Mutation Appeal No. 04 of 2014.

7. Hence, in the considered opinion of this court, the order of the Deputy Commissioner, Gumla being the order dated 12.06.2017 passed by the Deputy Commissioner, Gumla in Revenue Revision no. 38 of 2014-15 and also the order dated 31.10.2013 passed by the Circle Officer, Raidih in Mutation Case no. 42 (R )27 / 2013-14 are not sustainable in law, accordingly, the same are set aside.
8. In the result, this writ petition is allowed.
9. If the respondent nos. 3 to 8 so advised, they may file the Title Suit for establishing their title. It is made clear that this court is not made any comment regarding the title of the respondent nos. 3 to 8.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated, the 15<sup>th</sup> February, 2024  
Smita / AFR