

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Writ Jurisdiction)
WP(C) No. 1526 of 2009

Shashi Ranjan Jaiswal & Ors. Petitioners
Versus
The State of Jharkhand & Ors. Respondents

CORAM : HON'BLE MR. JUSTICE KAILASH PRASAD DEO

For the Petitioners : Mr. Badal Vishal, Advocate
For the Respondent/State : Mr. Ratnesh Kumar, S.C. (L & C)-I
Mr. Prashant Kr. Rai, A.C to S.C. (L&C)-I
Amicus Curiae : Mr. Anoop Kr. Mehta, Advocate

Order No.17 /Dated: 18th October, 2022

The matter is pending before this Court since 27.03.2009. Much time has been granted to the State counsel as well as State Officials to explain what is Khas Mahal Land, but it appears that State is also not clear with regard to Khas Mahal land.

This Court had earlier in W.P.(C) No.3552 of 2014 has directed the Additional Chief Secretary, Revenue, Registration and Land Reforms, Department, Government of Jharkhand to clarify what is Gairmazrue Aam land and Gairmazrue Khas/ Gairmazrue Malik land. The same has been clarified by the State through supplementary counter-affidavit dated 18.08.2022 in W.P.(C) No.3552 of 2014 and thus, the State has come to a consistent plea that Gairmazrue aam land being those land which has been vested in the Government or State, after vesting of the estate after independence, under the Bihar Land Reforms Act 1950. Those land always remains with the Government Land.

The State has also clarified that Gairmazrue Malik or Gairmazrue Khas were never belongs to the Government. Those lands always belong to the Malik or to the ex-intermediary, if those lands are being settled to the intermediary by the ex-land lord in accordance with law that is gairmazrue khas or malik land. This reference has been found in “**Statement -I of Bihar Land Reforms Act 1950.**”, which reproduced hereunder:-

(1) Serial No.	(2) Tauzi number and Khewat number of the tauzi or tenure held by the intermediary.	(3) Name of the mahal of tenure, if any.	(4) Nature or extent of interest held by the intermediary in the tauzi or tenure.	(5) Village or Villages in which the tauzi or tenure is situated
(6) Land revenue or rent payable by the intermediary in respect of the tauzi or tenure.	(7) Cess payable by the intermediary in respect of the tauzi or tenure.	(8) Area under Khas possession of the intermediary together with plot numbers and the classification of land.	(9) Area of gairmazrue malik land together with plot numbers.	(10) Area of Gairmazrue aam lands together with plot numbers.

(11)	(12)	(13)	(14)
Particulars of all buildings including buildings used as cutchery or office for collection of rent within the tauzi or tenure belonging to the proprietor or tenure holder showing how each such building is utilised by the intermediaries.	Details of all sairati interest e.g., fisheries, trees, jalkars, ferries, hats and bazars held within the tauzi or tenure indicting the annual jama, the date of the last settlement and the period for which settlement has been made by the intermediaries.	Total annual rent payable by intermediary subordinate tenure holders and raiyats. A copy of the jamabandi should be affixed showing the holdings of such raiyat and in the case of a tenure-holder the particulars of a tenure.	Total cess payable by the tenure holder or raiyats.

After 13 years, of pendency of the present writ petition several Officers appeared before this Court and assured this Court that they will clarify with regard to the nature of land, that is called as **Khas Mahal Land**.

Today, this Court has appointed Mr. Annop Kumar Mehta, learned counsel as an Amicus Curiae to assist this Court.

Mr. Anoop Kumar Mehta, learned Amicus Curiae has placed the Bihar Government/Jharkhand Government Estate, (Khas Mahal) Manual, 1953., which reads as follows:-

Chapter-I, Rule-1 defines Meaning of “Government estate”.

Rule-2 defines “Government Estate-How acquired.”

Rule-3 defines “how estate come under the direct management.”

Mr. Anoop Kumar Mehta, learned Amicus Curiae has further submitted, that those land are to be maintained as per “Rule 58 Register II- of Bihar Government/Jharkhand Government Estate, (Khas Mahal) Manual, 1953” wherein it is mentioned, which reads as follows:-

“58. **Register-II-** Instruction for writing up this register are given below:-

(i) A separate page must be allowed for each tenancy. The area and annual demand as it changes from year to year must filled in from register IA or IB in the space provided at the top. It will not be necessary to open a new register every year, as one page will probably last from three to five years. When it becomes necessary to rewrite the register, this should be done before the beginning of the year for which it is required for collection purposes. References to orders sanctioning

abatements of demand, settlements of unoccupied lands, etc. should be entered in the space provided at the top of the page, while the authority for remission should be noted in column 3. The order of sanction should be produced before inspecting officers in support of such entries in accordance with the instruction laid down by the Collector.

(ii) The year to which the entries of the tenant's account relate must be written boldly across the page and the entries of that year should be written below it.

Note- The Rules in this Chapter must be complied with exactly, unless, by a written order, which should be kept for the convenience of inspecting officers, in a separate file by the tahsildar or by the headquarters office, as the case may be, the Collector has sanctioned a departure from any particular Rule.

(iii) All demands must be written in red ink including demands in arrears for previous years, the current annual demand, any advance payment in previous years and any addition to the demand made during the course of the year.

(iv) All payments or remissions must be entered in black ink.

(v) Payments in respect of arrears must be entered in the columns of the years to which they relate.

(vi) The total of these credit entries is to be struck only at the end of the year.

(vii) If there is any balance the amount should be entered in black ink in all the columns below the total of payment.”

Mr. Anoop Kumar Mehta, learned Amicus Curiae, has thus confined his argument to the extent that lands are basically of two types, one is Garmazrua aam which definitely belongs to the Government and other is Garmazura khas and Garmazura malik which never belongs to the Government, unless and until that come under chapter-I Rule-2 of the Manual, 1953-Government-Estate-How acquired, which reads as under:-

“2. **Government-Estate-How acquired**-Estates may be acquired by Government in the following ways-

- (1) Purchase at revenue sale (Section 58 of Act XI of 1859)
- (2) Purchase by private contract.
- (3) Escheat in default of legal heirs.
- (4) Forfeiture to Government for certain offences against the State.
- (5) Resumption of island chars (Regulation XI of 1825).
- (6) Acquisition for public purposes.
- (7) Accretion to estates, the property of Government.
- (8) Resumption of lands hitherto held by zamindars for the performance of police duties when they are relieved of those duties.”

Thus, Mr. Anoop Kumar Mehta, learned Amicus Curiae has submitted, that once these types of lands are to be maintained under register IA and IB, the Circle Officers are duty bound under Rule 58 to specify the nature of the land in the said Register.

Mr. Anoop Kumar Mehta, learned Amicus Curiae has submitted, that Garmazrua Aam land and such acquisition of land made under these eight categories, if the lease is granted by the State for specific purpose to a limited period by grant of patta on certain Revenue terms, then such Land is termed to be Khas Mahal Land.

Under Khas Mahal Manual, title can not be transferred to any persons by the State of Jharkhand because State is the owner of the land being custodian of the land.

This Court directs the Secretary, who is in-charge of Revenue, Registration and Land Reforms to file a detail affidavit after detail discussion with the Chief Secretary, Government of Jharkhand, as the case remain pending for 13 years, it is expected that such affidavit must be filed before this Court by 22.11.2022.

The Land Reforms Deputy Collector-cum-Khas Mahal Officer, Ranchi, Mr. Rajiv Kumar Singh is present before this Court and he is directed to communicate the order to the Deputy Commissioner, Ranchi and the Secretary, Revenue, Registration and Land Reforms, Government of Jharkhand and the Chief Secretary, Government of Jharkhand with regard to the deliberation which has been made in the Court.

Office is directed to reflect the name of Mr. Anoop Kumar Mehta, as Amicus Curiae in the cause list and hand over the photo copy of this writ petition including the counter-affidavit, supplementary affidavit as well as order sheets to Mr. Anoop Kumar Mehta.

Put up this case on 22.11.2022.

(Kailash Prasad Deo, J.)

