

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 4821 of 2008**

1. Sukhdeo Mahto
2. Lakhan Mahto
Both sons of Late Barhan Mahto, residents of Village- Hupad, P.O. Banha Nawada, P.S. Sadar Muffasil, District- Hazaribagh

... Petitioners

-Versus-

1. The State of Jharkhand
 2. The Deputy Commissioner, Hazaribagh
 3. The Land Reforms Deputy Collector, Sadar, Hazaribagh
 4. The Circle Officer, Sadar, Hazaribagh
 5. Binod Mahto, son of Jitan Mahto
 6. Jitan Mahto, son of Mohan Mahto
 7. Mahesh Mahto, son of Mangar Mahto
 8. Kishore Mahto, son of Banshi Mahto
 9. Nageshwar Mahto, son of Banshi Mahto
- All respondent nos. 5 to 9 are resident of Village- Hupad, P.O. Banha Nawada, P.S. Sadar (Muffasil), Distt. Hazaribagh

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Awanish Shankar, Advocate
For the State : Mr. Prashant Kumar Rai, A.C. to S.C. (L&C)
For Respondent Nos.5-9 : Mr. Manoj Kumar Choubey, Advocate
Mr. Gautam Kumar Pandey, Advocate

09/25.03.2026 Heard Mr. Awanish Shankar, learned counsel for the petitioners, Mr. Prashant Kumar Rai, learned counsel for the State and Mr. Manoj Kumar Choubey, learned counsel for respondent nos. 5 to 9.

2. This writ petition has been filed under Article 226 of the Constitution of India for quashing the entire proceedings of Miscellaneous Case No.2/2008-09 recommended by respondent no.4 on 24.06.2008 before respondent no.3 for further action and order dated 11.07.2008 passed by respondent no.3 for issuance of notice upon the petitioners with regard to the cancellation of Jamabandi standing in the name of the petitioners since

1994-95 appertaining to lands of Khata No.57, Plot Nos.61, 566, 616, 619, 661, 677, 793, 801 and 2120 under Khewat No.4/3 measuring total area 0.81 acres situated at Village Harhad, Thana No.117, P.S. and District- Hazaribagh vide Rent Assessment Case No.2/1994-95 on the petition filed by respondent nos. 5 to 9 before respondent no.3.

3. During pendency of this writ petition, the Land Reforms Deputy Collector, Sadar, Hazaribagh has passed the order dated 04.12.2008 cancelling Jamabandi for which notice was issued and that was challenged by filing I.A. No.504 of 2009 and vide order dated 05.12.2011, the said I.A. was allowed, however in the present writ petition, said amendment has not been incorporated.

4. Learned counsel for the petitioners submits that Jamabandi was running in the name of the petitioners for the aforesaid plots and the Circle Officer, Sadar, Hazaribagh has recommended the Land Reforms Deputy Collector, Sadar Hazaribagh for passing proper order on the ground that the said Jamabandi was wrongly created and thereafter the Land Reforms Deputy Collector, Sadar, Hazaribagh has passed the order. He further submits that in absence of any cogent reason, the said order has been passed by the Land Reforms Deputy Collector, which is vitiated and, as such, appropriate order may kindly be passed.

5. Learned counsel for the State and respondent nos. 5 to 9 jointly opposed the prayer and submit that the Land Reforms Deputy Collector, Sadar, Hazaribagh has given cogent reason for passing the said order and cancelling Jamabandi of the petitioners. They further submit that no evidence was produced by the petitioners with regard to creation of Jamabandi and on

the basis of the record, the Land Reforms Deputy Collector has rightly passed the order.

6. In the impugned order dated 04.12.2008, the Land Reforms Deputy Collector, Sadar, Hazaribagh has called upon the petitioners to give evidence, however, request was made on behalf of the petitioners that on the basis of evidence, which was produced before the Circle Officer, Sadar, Hazaribagh, the order may kindly be passed.

7. The Land Reforms Deputy Collector, Sadar, Hazaribagh has found that Form-M was created pursuant to the recommendation made by the Circle Officer and in the said Form-M, Khata number was said to be 57 and Khewat number was 4/3, whereas, Khata No.57 comes under Khewat No.4/4. He has also found that no case number was indicated. He has further found that in the receipt no.803194, the case number was indicated as 2/1994-95 and that case was not registered in the register of Circle Office. He has also found that the Jamabandi was not created. The Land Reforms Deputy Collector has then found that on wrong report, the said Jamabandi was created. He has also found that the petitioners were not the ancestors of the original raiyat. He has further found that fraudulently the said Jamabandi was created and considering all these facts, the Land Reforms Deputy Collector, Sadar, Hazaribagh has passed the said order. If such was the position, the Land Reforms Deputy Collector has rightly passed the order. There is no illegality in the impugned order.

8. Opening of Jamabandi being administrative in nature can be reviewed, where it is without any order or it has been passed without jurisdiction or ex facie it is collusive or fraudulent in nature. Reference may be made to the

judgments passed in the cases of ***Mahabir Kanshi v. State of Jharkhand***, reported in ***JCR 2008 (4) 429*** and ***Yubraj Tiwary & Ors. v. State of Jharkhand & Ors.***, reported in ***(2010)2 JCR 170 (Jhr)***. It has been observed in the case of ***Abdul Jabbar v. State of Bihar and others***, reported in ***1992 SCC OnLine Pat 22*** in paragraph 4 thereof, which reads as under:

"4. In my opinion as a general proposition it cannot be said Jamabandi once created can never be cancelled. In Khiru Gope's case this Court merely has held following the earlier decisions of this Court in Harihar Singh's case and Jamaluddin Ahmad's case that if cancellation of Jamabandi amounts to cancellation of settlement; such power cannot be exercised. However, it may be mentioned that another Division Bench of this court in Gobind Singh v. The State of Bihar, reported in 1978 NOC 88 has held that orders of mutation are administrative orders and thus the same can be reviewed. Unfortunately the aforementioned Division Bench of this Court in Gobind Singh's Case AIR 1978 NOC 88 was not brought to the notice of this Court deciding Khiru Gope's case. In this situation in my opinion, it cannot be said as a general proposition of the law that a Jamabandi created can never be cancelled.

It was reiterated in 2009(2)JCR 153(Jhr) Jagdeo Mahto Vs Commissioner North Chotanagpur Division, Hazaribagh that mutation proceeding is not held before a court of law and are not judicial proceeding but are administrative in nature. Thus, there is no bar under law in cancelling the same. It was held that jamabandi standing in the name of a particular person can be cancelled in appropriate cases, where it is brought to the notice of the revenue authorities that the order of opening of jamabandi is without jurisdiction.

Cancellation of jamabandi on the ground of fraud was upheld in Shakuntala Patodia VS State of Jharkhand & Ors., 2015 2 JCR 281."

9. In view of the above judgment, the contention of the learned counsel for the petitioner that the Land Reforms Deputy Collector has no power under any circumstances to cancel Jamabandi, cannot be accepted. If a Jamabandi has been opened without a formal order or pursuant to an order passed without jurisdiction or obtained through fraud or collusion, it is well within the authority of the revenue officials to revisit and cancel the same. Fraud vitiates

all proceedings and renders them a nullity, as has been held in the case of ***Meghmala and others v. G. Narasimha Reddy and others***, reported in ***(2010) 8 SCC 383***.

10. In view of the above facts, reasons and analysis, no case of interference is made out.

11. Accordingly, this writ petition is dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated: 25th March, 2026
Ajay/ **A.F.R.**

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