

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8227 of 1994

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Sri Krishna Shukla, son of Sri Mathura Shukla, resident of
Baswaria, P.S. – Muffasil, District – East Champaran.

.... Petitioner.

Versus

1. The State of Bihar
2. The Collector, East Champaran
3. The Dy. Collector, Land Reforms, Motihari, District – East
Champaran.
4. The Anchal Adhikari Motihari, District – East Champaran.
5. Badri Sahani, son of Anthoni Sahani, resident of village
Bhataha, P.S. – Motihari Muffasil, District – East Champaran.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Sidhendra Narayan Singh
For the Respondents : Mr. Harsh Singh, AC to GP-II

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 16-04-2015

The present writ petition is directed against Review
Appeal No. 11/1992-93 which has been dismissed vide order
dated 05.08.1994 passed by the District Collector, East
Champaran (Annexure – 4). He has affirmed the order of
Deputy Collector, Land Reforms (hereinafter referred to as
“D.C.L.R.”) in Bataidari Case No. 1/87-88. The private
respondent no. 5, who claims to be Bataidar, was noticed by
the court and he appeared through Vakalatnama.

Be that as it may, the issue that has been raised

with reference to the orders of the D.C.L.R. and the Collector is that in view of the provisions of Section 48 (2E), (4) and (6) of the Bihar Tenancy Act (hereinafter referred to as “Act”), it is mandatory for the Board constituted to take steps for conciliation. If the parties do not appoint their own Panches, the Chairman has to appoint a person to represent a party. He has then to call upon the parties and bring about an amicable settlement. From the order-sheet of D.C.L.R., it is clear that neither of the parties i.e. petitioner, nor respondent no. 5 appointed any Panch nor the D.C.L.R., who was the Chairman of the Board, appointed any person in their case. Instead, he merely conducted an alleged spot inspection in absence of both the parties and submitted his report declaring respondent no. 5 Bataidar. When this order was challenged before the Collector in Appeal, he noticed, but dismissed it merely holding that the Chairman had noticed the parties. They did not appear and as such, he had taken all effective steps for conciliation. I am afraid that before the D.C.L.R. this point was not adjudicated. He had to take efforts for conciliation. That is mandatory and settled by catena of decisions of this court. Having failed to do so, this final order, affirmed by the Collector, cannot be sustained.



In that view of the matter, this writ petition is allowed. The impugned orders (Annexures – 3 and 4) are set aside and the matter is remanded for reconciliation and proceeding in accordance with law. Till final orders are passed, parties shall maintain status quo.

(Navaniti Prasad Singh, J.)

Rajeev/NAFR

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