

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3793 of 1994

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Chandra Kishore Pandey, son of Yugeshwar Pandey, resident of Village Baboo Barhi, Police Station Baboo Barhi, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Madhubani
3. The Deputy Collector, Land Reforms, Madhubani.
4. Anchal Adhikari, Baboo Barhi Block, District- Madhubani.
5. Sila Ram Raut, son of Late Sunder Raut, resident of Village- Tirhuta, Tola Balansher, Police Station- Baboo Barhi, District- Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajnikant Jha, Advocate.
Mr. Shailendra Kumar, Advocate

For the State
Respondent 1 to 4 : Mrs. Nivedita Nirvikar, G.A. 10
Mr. Manoj Kumar, A.C. to G.A. 10.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 23-04-2015

Heard learned counsel for the petitioner
and the State.

2. Petitioner is aggrieved by the order dated
21.09.1993 passed by Collector, Madhubani in
Bataidari Appeal Case No. 113/92-93, Annexure-1,
whereunder appeal filed by the petitioner land-holder
assailing the order dated 30.10.1992 passed in
Bataidari Case No. 1/90-91 granting protection to the
Bataidar Respondent No. 5 from ejectment from the
lands-in-question has been dismissed.



3. It is submitted on behalf of the petitioner that during the pendency of the writ petition the under-raiyat, Respondent No. 5 left for his heavenly abode on 09.10.2013, as asserted in Paragraph 1 of Interlocutory Application No. 3215 of 2015. The writ petition has become infructuous as according to the petitioner land-holder Bataidari right is not heritable. In support of such submission he has placed reliance on the judgment of this Court in the case of Nand Lall Yadav & Anr. Vs. The State of Bihar. (C.W.J.C. No. 1537 of 2014). Learned counsel for the petitioner further submitted that perusal of the appellate order will indicate that in the operative portion Collector has dismissed the appeal holding the same not maintainable.

4. In the light of the aforesaid submission, I have perused the order passed by the Collector dated 21.09.1993 wherefrom it appears that Collector dismissed the appeal as he was satisfied by the recommendation made by Chairman of the Board, as such, it does not appear that the Collector has dismissed the appeal as not maintainable. The initial order dated 30.10.1992 passed by the D.C.L.R. is in

the light of the proceedings conducted in presence of the Mukhiya of the village who was nominated as *Panch* by the Bataidar, *Panch* of the landholder did not even chose to participate in the proceeding. In the circumstances, petitioner has to blame himself for failure of his *Panch* not to participate in the proceedings of the Board.

5. After death of Respondent No. 5 the Bataidar, petitioner land-lord may reclaim possession of the lands-in-question in accordance with law.

6. With the aforesaid observation, the writ petition is disposed of.

(V.N. Sinha, J)

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