

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.892 of 2004**

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Santolia Devi D/o Late Dhaneshwar Choudhary W/o Basudeo Chaudhary,  
resident of Village Bisanpur, Armara Tole, P.S.Mansahi, District Katihar  
..... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Katihar
3. The Circle Officer, Mansahi, P.S.Mansahi, District Katihar
4. Sudhir Mahto S/o Late Mishri Mahato (**expunged vide order dated 27.01.2015 and substituted by his following heirs and legal representatives**)
  - 4(i) Most. Lakho Devi, widow
  - 4(ii) Sanjit Kumar Mahto- son
  - 4(iii) Ranjeet Kumar Mahto- son
  - 4(iv) Amarjeet Kumar Mahto-minor son under the guardianship of his natural guardian
5. Gopal Mahto S/o Late Mishri Mahto  
Residents of Village Bishanpur, Tarari Tole, P.S.Manshi, District Katihar

..... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bhola Prasad, Advocate  
For the Respondent Nos. 1 to 3 : Mrs.Archana Prasad, AC to SC 16

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**  
**ORAL ORDER**

13    30-10-2015                      Heard learned counsel appearing on behalf of the petitioner and learned AC to SC 16 appearing on behalf of the respondent nos. 1 to 3. However, none appears on behalf of the private respondents, though notices were validly served upon them and they have entered appearance through their counsel whose name is printed in the daily cause list.

2. The petitioner is aggrieved by the order dated 14.10.2003 passed in P.P.H.T. Revision No. 808 of 2003 by the respondent District Collector, Katihar, as contained in Annexure-4 to the writ petition, whereby the aforesaid revision application filed on behalf of the petitioner under Section 21 of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short, “the



Act, 1947”) has been rejected mechanically. The petitioner is also aggrieved by the order dated 19.07.2003 passed in Basgit Parcha Case No. 30 of 1997 by the respondent Circle Officer, Mansahi, as contained in Annexure-3 to the writ petition, whereby the claims raised on behalf of the private respondents for issuance of Basgit Parcha with respect to the lands under dispute, mentioned in the aforesaid order, have been allowed and Basgit parcha (s) have been directed to be issued in their favour.

3. Learned counsel appearing on behalf of the petitioner submits that originally private respondent nos. 4 and 5 filed their petition before the respondent Circle Officer, Mansahi for issuance of Basgit Parcha in their favour with respect to the lands in question which was finally allowed against the original landholder-Hanuman Prasad Agrawal. The petitioner claims to have purchased the lands in question subsequently from the original landholder Hanuman Prasad Agrawal, and thereafter the aforesaid landholder and the petitioner jointly filed their application before the respondent District Collector, Katihar under Section 21 of the Act, 1947 giving rise to P.P.H.T. Revision No. 652 of 1999-2000, which was finally allowed by order dated 15.11.2002 (Annexure-2) and the matter was remitted back to the respondent Circle Officer, Mansahi for deciding the case afresh, after giving an opportunity of hearing to the parties including the petitioner.

4. It is contended that, on remand, by the impugned order dated 19.07.2003 the claims of the private respondents have been allowed once again by the respondent Circle Officer, Mansahi without considering the case of the petitioner in its proper perspective. He next submitted that the petitioner being,



aggrieved by the order dated 19.07.2003 (Annexure-3), once again filed a petition under Section 21 of the Act, 1947 giving rise to P.P.H.T. Revision No. 808 of 2003. It is highlighted that the aforesaid revision application filed on behalf of the petitioner has been dismissed by the respondent District Collector, Katihar without application of his independent judicial mind to the facts of the case. It is pointed out that, on the face of it, the impugned order is a non-speaking and cryptic one and on that ground alone, it is liable to be set aside by this Court.

5. Though the present writ petition is pending since 20.01.2004 and by order dated 27.07.2004 passed by a Bench of this Court, notices were issued to the private respondent nos. 4 and 5, whereafter they entered appearance through their counsel, but till date no counter affidavit has been filed on their behalf controverting the averments made in the main writ petition. When the matter has been taken up today, as noticed above, none appears on their behalf to contest the claim raised on behalf of the petitioner, though names of the learned counsel appearing on behalf of the private respondents are printed in the daily cause list.

6. Learned State counsel appearing on behalf of the respondent nos. 1 to 3, though has opposed the prayer made on behalf of the petitioner, but she fairly conceded that no counter affidavit could be filed on behalf of the State officials also.

7. After having heard the parties and in the factual matrixes noticed above, this Court is of the opinion that the matter requires reconsideration and a fresh decision by the respondent District Collector, Katihar in exercise of his powers under Section 21 of the Act, 1947. Apparently, the impugned revisional order dated 14.10.2003 is a non-speaking and cryptic one. The

respondent District Collector, Kitiyar has not recorded any finding about the correctness or otherwise of the order passed by the respondent Circle Officer, Mansahi, who allowed the claim of the private respondents. Therefore, this Court is of the opinion that the impugned revisional order on that ground alone cannot be sustained in law.

8. For the reasons recorded above, the impugned order dated 14.10.2003 passed in P.P.H.T. Revision No. 808 of 2003 by the respondent District Collector, Kitiyar (Annexure-4) is hereby set aside and quashed and the matter is remitted back to the respondent District Collector, Kitiyar with a direction to decide the aforesaid revision case afresh on merits by reasoned and speaking order, after giving an opportunity of hearing to the petitioner as also the private respondents. The parties shall be at liberty to raise all the issues of facts and law which may be available to them with respect to the lands under dispute as also with respect to the order impugned passed by the respondent Circle Officer, Mansahi.

9. In the result, the writ petition stands allowed to the extent indicated above as also with the directions and observations made above. However, there shall be no order as to costs.

**(Birendra Prasad Verma, J)**

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