

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8468 of 1995

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1 Most Khatiyani, wife of late Manshi Mian
2 Sarif Mian
3 Md Latif @ Mihamd Latif
4 Hanif Mian, sons of late Manshi Mian, residents of Village – Tara Narahwan,
PS – Gopalpur, District - Gopalganj

.... Petitioner/s

Versus

1 State of Bihar
2 Mansa Rai, son of Kudan Rai
3 Suresh Rai, son of Mansa Rai
4 The Collector, Gopalganj
5 The Additional Collector, Gopalganj
6 The Deputy Collector, Land Reforms, Gopalganj
7 The Circle Officer, Kuchaikote, District - Gopalganj

.... Respondent/s

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For the Petitioner/s : N O N E

For the S t a t e : Ms Nivedita Nirvikar, GA X with
Mr Manish Dhari Singh, AC to GA X

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 09-07-2015

No one appears on behalf of petitioners or on behalf of the private respondents. State Counsel is present. There is counter affidavit on behalf of the State in the matter opposing the writ petition.

2 By this writ petition, the petitioners challenge the order of the Collector of the district by which he has cancelled the *Basgit Parcha* (receipt of privileged tenant) issued to the petitioners on objection by the private respondents.

3 The ground for challenge is that Collector has no

authority under the Bihar Privileged Persons Homestead Tenancy Act in the matter much less any authority to cancel or supersede orders passed by the Collector under the Act.

4 Having considered the matter, in my view, there is no merit in this contention. The reason is different. The Act makes a distinction between officers who would be deemed to be the Collector for the purposes of the Act. They would include the DCLR and the Circle Officer. This is to be distinguished from the Collector of the district who is the overall incharge of the revenue district. They are two distinct and separate offices and officers. Section 21 of the Act clearly confers powers on the Collector of the district to call for and examine any proceeding or any order passed by any authority or proceedings taken by Collector under the Act for satisfying himself with regard to legality thereof. Thus, this is a power of superintendence given to the Collector of district over the Collectors under the Act. Thus, the power is explicitly with the Collector of the district and no objection can be taken thereof. This is also the counter affidavit of the State.

5 It is then contended that the original writ petitioner was a privileged tenant. He had been in possession of the land as such. Unfortunately, the writ petition itself makes an admission in paragraph – 20 wherein original petitioner admitted that he was a

daily wage earner and he was allowed by the vendor of the private respondents to remain on the land in question as a privileged tenant long ago. This is clearly a permissive possession and not possession qua a tenant. That would not make him a privileged tenant. He does not state even that he was paying rent in cash or any kind to the vendor of the private respondents.

6 Thus, I find no merit in this application. It is, accordingly, dismissed.

7 The order of status quo, as passed earlier, is vacated.

(Navaniti Prasad Singh, J)

M.E.H./-

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