

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4793 of 2009

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1. Sudama Sah
 2. Bhikhari Sah

Both sons of late Babu Lal and both residents of village & P.O.-
Faijullahpur, P.S.-Baikunthpur, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Circle Officer, Baikunthpur, Gopalganj.
3. The Halka Karamchari, Baikunthpur, Gopalganj.
4. The Anchal Amin, Baikunthpur, Gopalganj.
5. Raghunath Sah, son of late Janak Sah, resident of village & P.O.-
Faijullahpur, P.S.-Baikunthpur, District-Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Vagisha Pragya Vacaknavi
For the Respondent nos.1to4 : Mr. M.K.Singh, AC to SC-6
For the Respondent no.5 : Mr.Arun Kumar Singh No.-3
Mr.Jeetendra Narayan

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 12-08-2015 Heard the parties.

The petitioners are aggrieved by the order dated 05.05.2007 (Annexure-1) passed by the respondent Anchal Adhikari, Baikunthpur, District-Gopalganj, whereby the claim of Basgit Parcha under the provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short 'Act') raised on behalf of the respondent no.5 has been allowed and Basgit Parcha in Form 'G' has been directed to be issued in his favour with respect to the lands in question mentioned in the impugned order.

Admittedly, the petitioners have an alternative and efficacious remedy under Section 21 of the Act before the District Collector, but, without exhausting the alternative and efficacious remedy available to the petitioners, they have approached this Court in the present proceeding assailing the validity and correctness of the impugned order granting Basgit Parcha to the

respondent no.5, by raising issues of facts.

This Court is of the considered opinion that the issues of facts must be examined and conclusively decided at the first instance by the statutory authorities, and only thereafter, power of Judicial Review of the High Court may be invoked. Apparently, the petitioners have failed to approach the District Collector, Gopalganj for grant of an appropriate relief.

In above view of the matter, the present writ petition is dismissed.

The order of stay passed on 16.04.2009 by a Bench of this Court stands vacated.

However, the petitioners shall be at liberty to approach the prescribed authority under Section 21 of the Act.

If such a petition is filed, then the same shall be considered in accordance with law after giving an opportunity of hearing to all concerned.

(Birendra Prasad Verma, J)

Arvind/-

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