

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12102 of 2013**

=====

Chhotelal Patel, Son Of Late Algoo Patel, Resident Of Village - Sirisiya,  
Block And P.S. Sikta, District - West Champaran

.... .... Petitioner/s

Versus

1. The State Of Bihar through the Member, Board of Revenue, Bihar, Patna
  2. The Commissioner, Tirhut Division, Muzaffarpur
  3. The Collector, West Champaran at Bettiah
  4. The Sub Divisional Officer, Narkatiaganj, West Champaran
  5. The Deputy Collector, Land Reforms, Narkatiaganj, West Champaran
  6. The Anchal Adhikari, Sikta, West Champaran
  7. The Anchal Amin, Sikta, West Champaran
  8. Sheikh Shamsul Hoda, Son of Late Sheikh Idu
  9. Sheikh Quamarul Hoda
  10. Sheikh Nurul Hoda
  11. Sheikh Sahidul Hoda
  12. Sheikh Mazmul Hoda
  13. Sheikh Amrul Hoda
- Respondent nos.9 to 13 are Sons Of Sk. Shamsul Hoda  
All Resident of Village - Sirisiya, Block and P.S. Sikta, District - West  
Champaran

.... .... Respondent/s

=====

**Appearance :**

|                              |   |                               |
|------------------------------|---|-------------------------------|
| For the Petitioner/s         | : | Mr. Amarendra Nath Verma Adv. |
| For the Respondent nos.1to7  | : | Mr. Subodh Kumar, AC to GP-14 |
| For the Respondent nos.8to13 | : | Mr.Arvind Kumar Tewary, Adv.  |
|                              |   | Mr.Md. Qaisar Reza, Adv.      |
|                              |   | Mr.M.K.Gandhi, Adv.           |

=====

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

3      26-11-2015

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 05.03.2013 passed in Case No.7 of 2012-13 by the respondent D.C.L.R., Narkatiyaganj (West Champaran), as contained in Annexure-5, whereby the aforesaid petition/appeal filed on behalf of the private respondent nos.8 to 13 has been allowed and the original order dated 27.02.2004

passed by the respondent Anchal Adhikari, Sikta, as contained in Annexure-3, allowing the claim of the writ petitioner under Section 48-D of the Bihar Tenancy Act, 1885 (in short 'B.T. Act') with respect to the lands under dispute, has been set aside.

The learned counsel appearing on behalf of the petitioner submits that by an order dated 27.02.2004 (Annexure-3) the claim of the writ petitioner under Section 48-D of the B.T. Act with respect to the lands under dispute was allowed by the respondent Anchal Adhikari, Sikta. According to him, if the private respondents were/are at all aggrieved by the aforesaid order, they could have filed an appeal before the prescribed appellate authority i.e. the S.D.O. of the area, but instead of filing an appeal before the prescribed appellate authority, they filed their appeal before the District Collector, West Champaran, Bettiah, which was finally rejected by an order dated 16.10.2012 (Annexure-4) with a liberty to the private respondents to approach the respondent D.C.L.R., Narkatiyaganj for redressal of their valid grievances. It is next contended that, in the light of the observations made by the respondent District Collector, the private respondents approached the respondent D.C.L.R., Narkatiyaganj by filing Case No.7 of 2012-13, which was finally allowed by the impugned order dated 05.03.2013 (Annexure-5). According to him, the respondent D.C.L.R., Narkatiyaganj is not the prescribed authority to hear and decide an appeal preferred against the order passed under Section 48-D of the B.T. Act. Therefore, it is contended that the impugned appellate order is wholly without jurisdiction and is liable to be set aside on that ground alone.

The learned State counsel appearing on behalf of the respondent nos.1 to 7 and the learned counsel appearing on behalf



of the respondent nos.8 to 13, on the other hand, have opposed the prayer made on behalf of the petitioner and have supported the impugned order on facts, but they finally conceded that the D.C.L.R., Narkatiyaganj was not authorized to hear appeal against the order passed under Section 48-D of the B.T. Act. According to them also, the power of hearing appeal is/was vested with the S.D.O., Narkatiyaganj. It is pleaded by the learned counsel appearing on behalf of the private respondents that a liberty may be granted to the private respondents to approach the prescribed appellate authority for redressal of their valid grievances.

After having heard the parties and on consideration of the materials available on the record and in view of the undisputed facts that a Rule was framed by the State Government, which is known as Bihar Tenancy (Amendment) Rules, 1992, wherein power to hear and decide the appeal has been vested to the S.D.O. or to any other officer empowered by the State Government by issuing a notification to hear such appeals, but this Court finds that in the present case no such notification has been shown by the learned counsel appearing on behalf of the respondents that the D.C.L.R., Narkatiyaganj was authorized to hear such appeal against the order passed by the Anchal Adhikari, Sikta. Therefore, this Court is left with no option but to set aside the impugned appellate order dated 03.05.2013 (Annexure-5) passed by the respondent D.C.L.R., Narkatiyaganj on the ground of lack of authority/jurisdiction for deciding such appeals.

Consequently, the impugned appellate order dated 05.03.2013 (Annexure-5) passed in Case No.7 of 2012-13 by the respondent D.C.L.R., Narkatiyaganj (West Champaran) is hereby set aside and quashed. However, this shall not come in the way of

the private respondents in approaching the prescribed appellate authority for redressal of their valid grievances.

The writ petition stands allowed to the extent indicated, but with the observations made above. However, there shall be no order as to costs.

**(Birendra Prasad Verma, J)**

Arvind/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|