

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2547 of 1999

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Dina Nath Mahto Petitioner/s

Versus

The State of Bihar & Ors Respondent/s

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with

Civil Writ Jurisdiction Case No.3774 of 1999

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Sri Krishna Singh & Ors Petitioner/s

Versus

The State of Bihar & Ors Respondent/s

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with

Civil Writ Jurisdiction Case No.6542 of 1999

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Deo Nandan Yadav & Ors Petitioner/s

Versus

The State of Bihar & Ors Respondent/s

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Appearance :
(In CWJC No.2547 of 1999)
For the Petitioner/s : Mr. Bindeshwar Pd.Singh
For the Respondent/s : Mr. (Sc8)

(In CWJC No.3774 of 1999)
For the Petitioner/s : Mr. Bindeshwar Prasad Singh
For the Respondent/s : Mr. (Sc8)

(In CWJC No.6542 of 1999)
For the Petitioner/s : Mr. Bindeshwar Prasad Singh
For the Respondent/s : Mr. (Gp2)

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

16 09-07-2015 Heard learned counsel for the petitioners and learned counsel appearing for the respondents.

All the three writ applications have been heard together and are being disposed of by common order as facts and issues are common.

In all these three cases the dispute is inter se between respondent No.5 Awdhesh Paswan who has been substituted by his heirs vide order dated 11.7.2006. The land owner in all these three cases is said to be respondent No.4.

It is the case of the petitioners that Plot No.553 measuring an area of 4.84 acres, Plot No.1281 measuring an area of 1.11 acres, Plot No.1328 measuring an area of .76 acres and Plot No.1330 measuring an area of 1.40 acres all of Khata No.83 of village Sakri Khurd, Tola Bhimal Bigha, P.S. Mehandia, District Jehanabad totaling 8.11 acres originally belonged to one Ram Prasad Ojha. All the petitioners claimed to be under raiyat and Bataidar on the premises that they are ploughing the land since long and they are in possession over it. As the land lord threatened dispossession, they all filed Bataidari Case along with other Bataidars namely Bhuneshwar Yadav before the D.C.L.R., Jehanabad giving rise to Bataidari Case No. 1/92-93. The said case was dismissed on 22.2.1994 on the ground that Parcha with regard to the said land in question has already been issued in favour of Awadh Paswan. The petitioners filed writ application bearing C.W.J.C. No.8419 of 1994 challenging the order dated 22.2.1994 whereby the D.C.L.R. had dismissed the Bataidari Case. The writ application was heard and disposed of on 3.7.1995 with liberty to the petitioners to keep their remedy under section

22 of the Ceiling Act.

The grievance of the petitioners that though they have filed Ceiling case under section 22 of the Ceiling Act, the same is still pending for disposal. The petitioners state that respondent No.5 also became intervener in C.W.J.C. No.8419 of 1994 and as such they came to learn that he had also filed B.T. Case bearing Case No.37 of 1989-90 before the S.D.O. Arwal. The petitioners filed intervention application before the S.D.O., Arwal which was not entertained. The B.T. Case filed by respondent No.5 namely B.T. Case No.37 of 1989-90 was allowed on 29.1.1996. The petitioner being aggrieved filed an appeal before the Collector, Jehanabad being Case No.19DM/95-96 against Rohan Paswan, father of Awdhesh Paswan and others. The appeal was allowed on 17.3.1998 and the Collector, Jehanabad directed the S.D.O. Arwal to pass a fresh order.

It was now the turn of respondent No.5 Awdhesh Pasan to file writ application bearing C.W.J.C. No.3809 of 1998 which was allowed on 9.2.1999 on the ground that the Collector had no jurisdiction to entertain the appeal against the order passed under section 48E of the B.T. Act. The petitioner states that in fact he is a real Bataidar and there is a report dated 4.8.1998 in a proceeding under section 144 Cr.P.C. that they are in possession of the land. They submit that the report of the Circle Officer

dated 26.8.1992 in B.T. Case No.1 of 1992-93 would also show that they are in possession of the land.

A counter affidavit has been filed on behalf of respondent no.5 wherein it has been stated that the petitioners have set up by the former land lord (respondent No.4) against him. It is further stated that the land in question were acquired under Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act and vested in the State of Bihar finally on 20.4.1992. The application of the petitioners under B.T. Act were filed much thereafter on 12.8.1992. The said lands have been settled with him and as such the Division Bench of this Court in C.W.J.C. No.8419 of 1994 had observed that the petitioners may seek remedy under section 22 of the Ceiling Act.

It is the case of the petitioners that they have already filed an application under section 22 of the Ceiling Act before the S.D.O., Arwal, it will be open for the petitioners to pursue their remedy before the S.D.O., Arwal who would dispose of the same expeditiously, if not already disposed of.

With the aforesaid observations and directions, these writ applications stands disposed of.

KHAN/-

(Samarendra Pratap Singh, J)

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