

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6676 of 1997

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Sri Haribansh Pandey, son of Late Bechu Pandey, resident of Village- Simri Khaira Patti, P.S.- Simri, District- Buxar. Petitioner.

Versus

1. The State of Bihar
 2. District Magistrate, Buxar
 3. Circle Officer, Simri, P.S. Simri, District- Buxar.
 4. Smt. Shanichari Devi, daughter of late Ramchij Malah, wife of Sipahi Malah, resident of Village- Dhumra Kepula, P.S. Buxar (T), District- Buxar, now, Village- Simri Khaira Patti, P.S.- Simri, District- Buxar. Respondents
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Appearance :

For the Petitioner/s : Mr. Shree Kant Pandey, Advocate
Mr. Bishnu Kant Dubey, Advocate

For the Respondent/s : Mr. (GP1)
Mr. U. K. Choudhary

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 19-05-2015

Heard learned counsel for the petitioner and the State.

2. The petitioner prays for quashing the order dated 11.09.1996 passed by the Circle Officer, Simri in Basgit Parcha Case No. 14 of 1996-97, by which it has been held that Parcha has been issued in favour of respondent no.4 without notice to Raiyat.

3. In spite of notice, no one appears on behalf of private respondents, whereas counsel for the State is present.

4. The petitioner's claim that before issuing the order, no notice was issued to him. Furthermore, there is no finding that the person claiming to be a privileged person was not a proprietor or tenure holder and does not hold more than one acre of land.

5. In support of his submissions, the petitioner has relied

upon a Division Bench judgment passed in case of Hira Lal Vishwakarma Vs. Vishwanath Sah & Ors, reported in 1978 BBCJ 623.

6. A counter affidavit has been filed by the official respondents, which does not refute the petitioner's submission that any notice was issued to him or whether there was any finding in accordance with Section 2(1) of Bihar Privileged Persons Homestead Tenancy Act.

7. In the result, this writ application succeeds. The impugned order dated 11.09.1996 passed by the Circle Officer, Simri, Buxar in Basgit Parcha Case No. 14 of 1996-97 is set aside. However, it will be open for the respondents to start a fresh proceeding in accordance with law.

8. This writ application is allowed.

(Samarendra Pratap Singh, J.)

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