

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12180 of 2005

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Prabhu Yadav son of Late Sarup Yadav, resident of Village- Sohans, P.O.- Jafara,
P.S. Bisfi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani, District- Madhubani.
3. The Deputy Collector, Land Reforms, Benipatti, District- Madhubani.
4. The Sub-Divisional Officer, Benipatti, District- Madhubani.
5. The Anchal Adhikari, Bisfi, District- Madhubani
6. Chalitar Sada son of Late Lakhan Sada
7. Sadhu Sada son of Late Kukan Sada (Expunged vide order dated 18.12.2013
and substituted by his following heirs and legal representatives)
 - 7 (i) Kamlesh Sada
 - 7 (ii) Chandradeo Sada
 - 7 (iii) Sanjeev Sada, 7(i) to 7(iii) are sons of Late Sadhu Sada.
 - 7 (iv) Anita Kumari
 - 7 (v) Phulpari Devi
 - 7 (vi) Pramila Devi, 7(iv) to 7(vi) are daughters of late Sadhu Sada
8. Chhotakan Sada son of Late Lakhan Sada, respondent no. 6 to 8 are resident of
village- Jafara, P.O. Jafara, P.S. Bisfi, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwanath Pd. Sinha, Sr. Adv.
Mr. Nand Kishore Yadav
Mr. Yugal Kishore
Mr. Prabhash Ranjan Thakur

For the Respondent No.1 to 5: Mr. Ajay Kumar Sharma, AC to PAAG

For the Respondent No. 6 to 8: None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 29-10-2015

Heard learned Senior counsel appearing on behalf of the
petitioner and the learned AC to learned PAAG appearing on behalf
of the respondent no. 1 to 5. However, despite valid service of notice,
none appears on behalf of the respondent no. 6 to 8 to contest the

claims raised on behalf of the petitioner.

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 08.07.2004 passed in Bataidari Case No. 33 of 1993-94 and 17 of 2003-04 by the respondent Sub-Divisional Officer, Benipatti-cum- Bataidari Magistrate, Benipatti, as contained in Annexure-4 to the writ petition, whereby the Batai claims of private respondent no. 6 to 8 were allowed and Bataidari parcha with respect to the lands in question was directed to be issued in their favour. The petitioner is also aggrieved by the order dated 24.06.2005/ 27.06.2005 passed in Bataidari Appeal Case No. 18 of 2004-2005 read with Bataidari Appeal No. 14 of 2004-05, as contained in Annexure-5, whereby aforesaid Bataidari Appeal filed on behalf of the petitioners was rejected and the order passed by the respondent S.D.O. was affirmed.

Learned Senior counsel submits that, in fact, the petitioner is the purchaser from the original landholder. Therefore, he filed intervention petition in the Bataidari cases filed on behalf of the respondent no. 6 to 8. It is further submitted that by a common impugned order dated 08.07.2004 (Annexure-4) as many as 19 Batai cases were allowed in favour of the respondent no. 6 to 8 and other claimants. It is also submitted that against the original order (Annexure-4), 19 separate Batai appeals were filed and all the Bataidari appeals filed by the purchasers were dismissed by a common order dated 24.06.2005/ 27.06.2005 by the respondent District Collector, Madhubani. It is next submitted that the purchasers, being aggrieved by the aforesaid orders, preferred several writ petitions before this Court challenging the original order as contained in Annexure-4, as also the appellate order, as contained in Annexure-

5, and a bunch of writ petitions vide C.W.J.C. No. 507 of 2007, and its analogous matters were heard together and were finally allowed by a common judgment and order dated 23.12.2013 by a Bench of this Court [Coram: Jyoti Saran,J], a photocopy of the aforesaid judgment and order dated 23.12.20013 has been produced before this Court.

After going through the aforesaid judgment and order dated 23.12.2013, this Court finds that all those connected writ petitions were allowed and the orders passed by the original authority as also the appellate authority were set aside and the Batai cases were remitted to the respondent Sub-Divisional Officer, Benipatti with a direction to constitute a fresh Batai Board and decide the batai claims of the claimants afresh in accordance with law after giving an opportunity of hearing to all concerned.

Learned State counsel appearing on behalf of the respondent no. 1 to 5 does not dispute the aforesaid assertions, rather he concedes that the aforesaid judgment and order dated 23.12.2013 has been followed by a co-ordinate Bench of this Court in CWJC No. 652 of 2007 and CWJC No. 1109 of 2007, whereby two remaining writ petitions filed by other purchasers were also allowed in the same term.

In above view of the matter, this writ petition is also allowed in the same term. The impugned original order dated 08.07.2004 (Annexure-4) passed by the respondent S.D.O., Benipatti and the impugned appellate order dated 24.06.2005/ 27.06.2005 (Annexure-5) passed by the respondent District Collector, Madhubani, so far these relate to the petitioner, are hereby set aside and quashed and the matter is remitted to the respondent S.D.O.-cum- Bataidari Magistrate, Benipatti with a direction to constitute a fresh Batai Board and decide the Batai claims of the respondent no. 6 to 8 afresh in accordance with law expeditiously, after giving an opportunity of

hearing to all the parties.

It is expected that the respondent S.D.O., Benipatti shall take actions in promptitude in the light of the present order and the order dated 23.12.2013 passed in CWJC No. 507 of 2007 and its analogous matters as also the order dated 6.2.2015 passed in CWJC No. 652 of 2007 and its analogous matter.

Photo copy of the judgments and orders, passed by two co-ordinate Benches of this Court, produced by the learned senior counsel appearing on behalf of the petitioners, shall be kept on record.

(Birendra Prasad Verma, J)

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