

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13233 of 2012

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Kapildeo Sharma Son of Late Bindeshwari Sharma, Resident of Village -
Kajha, P.S. K. Nagar, District - Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnea
3. The Deputy Collector, Land Reforms, Sadar Purnea
4. Most. Shankari Devi Wife of Late Shibu Paswan, Resident of Village -
Kajha (Paswan Toli), P.S. - K. Nagar, District - Purnea
5. Jang Bahadur Paswan Son Of Late Ganauri Paswan, Resident of Village
- Kajha (Paswan Toli), P.S. - K. Nagar, District - Purnea
6. Ashok Paswan Son of Late Shibu Paswan, Resident of Village - Kajha
(Paswan Toli), P.S. - K. Nagar, District - Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent No.1 to 3: Mr. Anjani Kumar, AAG-6
Mr. Sanjay Kumar, AC to AAG-6

For the Respondent No. 4 to 6: Mr. Ashok Kumar Sinha
Mr. Shyam Sundar Pandey

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 30-11-2015 Heard the parties.

The petitioner is aggrieved by the order dated 29.03.2012 passed in Case No. 130/78 of 2011-12 by the respondent D.C.L.R., Sadar Purnia, as also the consequential orders, as contained in Annexure-3 to the writ petition, whereby on the basis of the petition filed on behalf of the respondent no. 4 to 6 under Section 48E of the B.T. Act, notices were directed to be issued to the petitioner and several other persons calling upon them to show cause as to why the aforesaid petition be not admitted and appropriate final order be not passed.

The learned counsel appearing on behalf of the petitioner submits that earlier petition was filed by one Shibu Paswan- the husband of the respondent no.4 and father of

respondent no.6 under Section 48E of the B.T. Act, which was rejected; therefore, according to him, after death of aforesaid Shibu Paswan, fresh petition filed by his heirs and legal representatives is not maintainable.

Learned A.C. to AAG-6 appearing on behalf of the respondents no. 1 to 3, has filed a counter-affidavit during the course of the hearing of the case on behalf of the respondent no. 3 alone, which is taken on the record. He submits that aforesaid petition filed on behalf of the respondent no. 4 to 6 is still pending for admission and the objections, which are sought to be raised on behalf of the petitioner, can be well raised before the respondent D.C.L.R., who, after looking into the relevant records, shall pass appropriate order.

Learned counsel appearing on behalf of the respondent no. 4 to 6 has fairly conceded that he has not filed any counter-affidavit on behalf of the aforesaid respondents, but he submits that the writ petition is liable to be dismissed on the ground of non-joinder of the necessary parties as most of the landholders, against whom claim has been raised on behalf of the private respondents, have not been impleaded as party respondents in the present proceeding.

After having heard the parties and on consideration of the materials available on record, this Court finds that it is true that a petition under Section 48E of the B.T. Act was filed on behalf of the respondent no. 4 to 6, which gave rise to Batai Case No. 130/78 of 2011-12. This Court further finds that by the impugned order dated 29.03.2012 (Annexure-3), notices were issued to the several landholders including the petitioner, but all of them have not been impleaded as party respondents. Indisputably, the

aforesaid batai case filed on behalf of the respondent no. 4 to 6, is still at the stage of admission and at this stage it cannot be ascertained as to which part of the land belongs to the petitioner and which part of the land belongs to the other landholders. Therefore, this Court is of the opinion that the issues, which are sought to be raised on behalf of the petitioner in the present proceeding can be well raised before the respondent D.C.L.R., Sadar Purnea, which shall be considered and decided strictly in accordance with law by a reasoned and speaking order after giving an opportunity of hearing to all concerned; Whereafter, the aforesaid batai case shall be taken to its logic conclusion. It is ordered accordingly.

In order to expedite the matter, the petitioner and the respondent no. 4 to 6 are hereby directed to appear before the respondent D.C.L.R., Sadar Purnia with a certified copy of the present order as also all the materials/ documents in support of their respective claims within a period of one month from today whereafter the respondent D.C.L.R., Sadar Purnea shall decide the aforesaid batai case strictly in accordance with law, but before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner and the respondent no. 4 to 6.

With the aforesaid observations and directions, the writ petition stands finally disposed of.

(Birendra Prasad Verma, J)

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