

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.577 of 2006

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1. Sanjeeb Yadav
2. Sanjai Yadav, both sons of Shri Bindeshwar Yadav, R/O Village- Piprahi, Tole, Dhatta, P.S.- Ladania, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani.
3. The Sub-Divisional Officer cum Land Reforms Deputy Collector, Jai Nagar, Madhubani.
4. The Circle Officer, Ladania, Madhubani.
5. Mahendra Yadav, s/o Late Domi Yadav, R/O Village- Gadha, P.S.- Ladania, District- Madhubani.
6. Jagdeo Yadav, s/o Bataw Yadav, R/O Village- Gadha, P.S.- Ladania, District- Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 933 of 2006

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Rameshwar Yadav, son of late Janak Yadav, R/O Village- Piprahi, Tole, Dhatta, P.S.- Ladania, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani.
3. The Sub-Divisional Officer cum Land Reforms Deputy Collector, Jai Nagar, Madhubani.
4. The Circle Officer, Ladania, Madhubani.
5. Ram Bahadur Safi, s/o Rami Safi, R/O Village- Gadha, P.S.- Ladania, District- Madhubani.

.... Respondent/s

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Appearance :

(In CWJC No. 577 of 2006)

For the Petitioner/s : Mr. Jagannath Singh

For the Respondent No.1 to 4: Mr. Ajay Kumar Sharma, AC to PAAG

(In CWJC No. 933 of 2006)

For the Petitioner/s : Mr. Jagannath Singh

For the Respondent No.1 to 4: Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 06-11-2015

Since the issues of facts and law involved in the above two writ petitions are similar and identical; therefore, on the request

of the parties, both the matters have been heard together and are being disposed of by this common judgment.

2. The matter at issue is the orders passed in a proceeding under Section 48E of the Bihar Tenancy Act, 1885 (in short B.T. Act) with respect to the lands claimed by the petitioners, which have been affirmed by the appellate authority.

3. The petitioners of both the writ petitions claim that they purchased their lands through separate registered sale deeds dated 21.01.1997 from one Baijnath Lal Das and Upendra Narain Lal Das both sons of late Jeebachh Lal Das. The sale deeds executed in favour of the petitioners have been brought on record as Annexure-1 in both the writ petitions.

4. The petitioners of both the writ petitions are aggrieved by the separate orders dated 14.10.2003 passed in Bataidari Case No. 49 of 1997-98 and 46 of 1997-98 respectively, which have been brought on record as Annexure-3 in both the writ petitions, whereby batai claims of the private respondents were allowed with respect to the lands under dispute. The petitioners are also aggrieved by the appellate order dated 14.03.2005 passed in Bataidari Appeal No. 40 of 2003-04 and all other analogous appeals (Annexure-4) whereby the respondent District Collector, Madhubani, by the common order, has dismissed the aforesaid Bataidari appeals including that of the petitioners.

5. Learned counsel appearing on behalf of the petitioners submits that though the petitioners had purchased the lands in question in the year 1997, but in the aforesaid two bataidari cases, they were not impleaded as party respondents and without giving them an opportunity of hearing, batai claims of the private respondents have been allowed. He further submitted that the procedures prescribed under Section 48E of the B.T. Act were not strictly followed by the Collector under the provisions of the B.T.

Act; therefore, on that ground also the impugned orders are not sustainable in law. He next submitted that the separate batai appeals preferred on behalf of the petitioners under Section 48F of the B.T. Act against the original order passed by the respondent S.D.O., Jai Nagar have been dismissed by the respondent District Collector, Madhubani mechanically without deciding the issues raised on behalf of the petitioners in their proper perspective. Therefore, according to him, the appellate order is also not sustainable in law.

6. In both the cases notices were issued to the private respondents by order dated 05.11.2007 and again on 19.01.2015 and despite valid service of notice, none appears on behalf of the private respondents to oppose the prayer made on behalf of the petitioners.

7. Learned State counsel appearing on behalf of the official respondents though has opposed the prayer made on behalf of the petitioners, but has not been able to dispute the submissions made by the learned counsel appearing on behalf of the petitioners.

8. After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the matter requires reconsideration and fresh decision from the stage of the constitution of Batai Board afresh, as there has been violation of the rules of natural justice. The petitioners, having been purchased the lands in question in the year 1997, were required to be given an opportunity of hearing, but that has not been done in the aforesaid two batai cases.

9. For the reasons recorded above, the impugned order dated 14.10.2003 passed in Bataidari Case No. 49 of 1997-98 by the respondent S.D.O., Jai Nagar, as contained in Annexure-3 in CWJC No. 577 of 2006 as also the impugned order dated 14.10.2003 passed in Bataidari Case No. 46 of 1997-98 by the respondent S.D.O., Jai Nagar (Annexure-3) in CWJC No. 933 of 2006 and further the impugned appellate order dated 14.03.2005 passed in Bataidari

Appeal Case No. 40 of 2003-04 and its analogous appeals, so far these relate to the present petitioners, as contained in Annexure-4 to both the writ petitions, are hereby set aside and quashed, and the matter is remitted back to the respondent S.D.O., Jai Nagar, who is the Collector under B.T. Act, with a direction to constitute Batai Board(s) afresh for deciding the batai claims of the private respondents in accordance with law.

10. In order to expedite the matter, the petitioners are hereby directed to appear before the respondent S.D.O., Jai Nagar within a period of two months from today with a certified copy of the present order, whereafter the respondent S.D.O. shall issue notice to the private respondents since they are not represented in the present proceeding, and thereafter Batai Board(s) shall be constituted afresh in accordance with law, after nomination of their respective panches as provided under Section 48E of the B.T. Act and rules made thereunder; and the matter shall be decided strictly in accordance with law.

11. It is clarified that if the petitioners of both the cases fail to appear before the respondent S.D.O., Jai Nagar in the manner indicated above, within the aforesaid period of two months, then it shall be construed that both the writ petitions stood rejected on account of non-compliance of the Court's order.

12. In the result, both the writ petitions stand allowed to the extent indicated above as also with the observations and directions made above. No costs.

(Birendra Prasad Verma, J)

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