

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14141 of 2010**

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1. Laila Qamar D/O Late Qaumrul Imam, Resident of Mohalla-Marufganj, Police Station-Kotwali (Gaya), District-Gaya
  2. Ram Prasad Yadav S/O Late Bandhu Yadav Resident of Village-Tetaria, Police Station-Gurua, District - Gaya

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Collector, Gaya
3. The Sub Divisional Officer, Sherghati, Gaya
4. The Circle Officer, Gurua, Gaya
5. The Halka Karmchari-Cum- Circle Inspektor, Gurua Anchal, Gurua
6. The Officer In-Charge, Gurua Police Station, Gaya
7. Ram Pravesh Paswan S/O Late Kali Paswan, Resident of Village-Barhi Bigha, Police Station-Gurua, District- Gaya
8. Sharda Paswan S/O Late Kali Paswan, Resident of Village- Barhi Bigha, Police Station-Gurua, District- Gaya
9. Surya Deo Paswan S/O Late Kali Paswan, Resident of Village- Barhi Bigha, Police Station-Gurua, District- Gaya
10. Sahadeo Paswan S/O Late Kali Paswan Resident of Village- Barhi Bigha, Police Station-Gurua, District- Gaya
11. Dinesh Paswan S/O Late Kali Paswan Resident of Village- Barhi Bigha, Police Station-Gurua, District- Gaya

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bindhyachal Singh  
Mr. Vijay Bharti

For the Respondent No.1 to 6 : Mr. Utsav Kumar, AC to GA-11

For the Respondent No.7 to 11: Mr. Birju Prasad

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**  
**ORAL ORDER**

10 11-09-2015

Heard the parties.

The petitioners are aggrieved by the impugned homestead parcha (Basgit parcha) issued in favour of the respondent no. 7 to 11, as contained in Annexure-4 series, under the provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (In short 'Act, 1947') with respect to the lands under dispute.

From perusal of the impugned homestead parchas (Annexure- 4 series) this Court finds that the aforesaid Basgit

parcha(s) was issued in favour of the private respondents in Case No. 3 of 2003-04 by the respondent Circle Officer, Gurua, Gaya. Unfortunately, neither the petitioners nor the respondents have brought the order-sheet of aforesaid Basgit Parcha Case No. 3 of 2003-04 on the record.

Furthermore, this Court is of the opinion that against the impugned action/ order(s) of the respondent Anchal Adhikari, the petitioners have an alternative and efficacious remedy before the respondent District Collector, Gaya under the provisions of Section 21 of the Act, 1947. Admittedly, the petitioners have not exhausted the aforesaid alternative remedy available to them.

This Court is also of the considered opinion that at the first instance, the issues of facts must be raised by the parties and conclusively decided by the statutory authorities, and only thereafter, powers of judicial review under Article 226 of the Constitution of India may be invoked before this Court. In the present case issues of facts raised on behalf of the petitioners and controverted by the respondents are required to be examined and conclusively decided by the statutory authority i.e. the respondent District Collector, Gaya, empowered u/s 21 of the Act, 1947.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to approach the respondent District Collector, Gaya in terms of Section 21 of the Act, 1947 for redressal of their valid grievances.

If such an application/ appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order, then the respondent District Collector, Gaya shall call for and examine the records of the Basgit Parcha case decided by the respondent Anchal Adhikari

and thereafter he shall pass appropriate final order with respect to the lands in question after giving an opportunity of hearing to all the parties including the private respondent no. 7 to 11.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law with respect to the lands in question as also the order(s) passed by the respondent Anchal Adhikari, Gurua before the respondent District Collector, Gaya.

The writ petition stands finally disposed of with the observations and directions made above.

**(Birendra Prasad Verma, J)**

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