

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2266 of 2006

=====

Pradeep Kumar Yadav son of Sri Deo Narain Yadav, resident of village Nav Toliya, P.S.Karikapur, P.S.Raniganj, District Araria1.

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Additional Collector, Araria
 3. Deputy Collector, Land Reforms, Farbisganj, District Araria
 4. Circle Officer, Raniganj,Subdivision, Farbisganj, District Araria
- State Respondents

5. Dineshwar Yadav son of Tilo Yadav ... Private Respondent 11nd Sets
6. Yogendra Prasad Bhagat son o f Late Janak Lal Bhagat, resident of village land P.O. Kala Balua, P.S.Raniganj, District Araria

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Praveen Kr.Agrawal, Advocate
Mr. Rajesh Kumar, Advocate

For the Respondent Nos. 1 to 4 : Mr. AC to AAG 2

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 07-08-2015 Heard learned counsel for the petitioner and learned AC to AAG 2, appearing on behalf of the respondent nos. 1 to 4. None appears on behalf of the respondent nos. 5 and 6, though notices were issued and served upon them in the light of the order dated 04.12.2007 passed by a Bench of this Court.

2. The petitioner is aggrieved by the order dated 24.03.2004 passed in Bataidari Appeal Case No. 1 of 1999-2000 (Annexure-6A) by the respondent Additional Collector, Araria in exercise of his powers under Section 48 F of the B.T.Act. By the aforesaid order dated 24.03.2004 bataidari claim of respondent no.5 was allowed in view of the compromise entered into between him and the original landholder Janak Lal Bhagat.

3. Learned counsel appearing on behalf of the

petitioner submits that the petitioner purchased the lands in question from Yogendra Prasad Bhagat son of original landholder Janak Lal Bhagat. According to him, the partition had taken place between the original landholder and his son Yogendra Prasad Bhagat, yet neither the vendor of the petitioner nor the petitioner himself was given an opportunity of hearing before passing the impugned order.

4. It is not in dispute that the land was originally belonging to original landholder Janak Lal Bhagat. Though, the petitioner claims that a partition had taken place between the original landholder and his son Yogendra Prasad Bhagat, however, in the whole writ petition, not even a chit of paper has been produced in support of such partition. Therefore, the plea of partition taken by the petitioner cannot be accepted. If the original landholder was a party and was alive and he had entered into a compromise with the claimant respondent no.5, then the impugned order cannot be legally faulted. It has nowhere been stated that when the impugned order dated 24.03.2004 was passed, the original landholder Janak Lal Bhagat was not alive. If he was surviving and had entered into compromise, then certainly the impugned order dated 24.03.2004 cannot be legally faulted. Furthermore, even if the order impugned is allowed to stand, in that case also, the respondent no.5 shall remain only as an under raiyat and will not be the landholder. Whether the petitioner acquired valid right and title on the basis of sale made by the son of original landholder, that can be decided in an appropriate separate proceeding. If any dispute of title of the petitioner is raised for the land in question, he shall be at liberty to approach the appropriate forum/court for grant of appropriate relief, which

shall be decided in accordance with law.

5. The writ petition stands finally disposed of with the aforesaid observations/directions.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--