

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5710 of 2006

Narayan Paswan, son of Rameshwar Paswan, resident of Villag - Barinagar, P.S. Barari, District- Katihar.

. Petitioner/s

Versus

1. The State of Bihar through the Collector, Katihar.
2. The Sub-Divisional Magistrate, Katihar.
3. The Circle Officer, Barari, District Katihar.
4. Sri Surya Narayan Kunwar, son of Bishwanath Kunwar, resident of Village- Barinagar, P.S. Barari, District Katihar.

Respondent/s

Appearance :

For the Petitioner/s:

Mr. Abhay Kumar Singh I, Adv.

For the Respondent Nos.1 to 3:

Mr. Suryakant Kumar, AC to GA-8

For the Respondent No.4:

Mr. Vishwanath Prasad Sinha, Sr. Adv.

Mr. Sanjay Kumar Singh, Adv

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 23-08-2016

Heard the learned counsel, appearing n behalf of the petitioner, the learned AC to GA-8, appearing on behalf of the respondent nos. 1 to 3 and the learned Senior Counsel appearing on behalf of the respondent no.4.

2. The petitioner is aggrieved by the order dated 16.12.2005 passed in 48D Case No. 11 of 2000 by the respondent S.D.O., Katihar, as contained in Annexure-8 to the writ petition, whereby the aforesaid case filed on behalf of the respondent no. 4 in the form of appeal under Section 48D of The Bihar Tenancy Act, 1885 (in short B.T. Act) and the Rules made thereunder has been allowed and the order dated 8.3.1996 passed in 48D B.T. Act Case No. 24 of 1994-95 by the respondent Circle Officer, Barari, as contained in Annexure-4, has been set aside and thereby claim raised on behalf of the petitioner u/s 48D of the B.T. Act with respect to the lands in question, fully detailed in paragraph-3 of the writ petition, has been rejected.



3. The learned counsel appearing on behalf of the parties are unanimous in their submissions that today itself (23.8.2016), identical matter has been disposed of by this Bench in C.W.J.C. No.5641 of 2006 filed on behalf of the father of the petitioner and the entire matter has been remitted back to the respondent Circle Officer, Barari with a direction to decide the claim of the claimant afresh. They are also unanimous in their submissions that only difference between the case of the father of the petitioner and the present petitioner is that there is some difference in the area of lands claimed by them and the difference about case number before the Circle Officer, Barari and the appeal case number before the S.D.O., Katihar, but the other facts as also the points raised on behalf of the parties are almost similar and common.

4. The learned counsel appearing on behalf of the parties are further unanimous in their submissions that the present matter may also be disposed of in terms of the judgment and order passed in CWJC No. 5641 of 2006 filed on behalf of the father of the petitioner and the matter may be remitted back to the respondent Circle Officer, Barari with a direction to decide the claim of the petitioner afresh.

5. In view of the aforesaid fair stand taken by the learned counsel appearing on behalf of the parties and for the reasons recorded in the judgment dated 23.8.2016 passed in CWJC No. 5641 of 2006, the impugned order dated 16.12.2005 passed in 48D Case No. 11 of 2000 by the respondent S.D. O. Katihar, as contained in Annexure-8, as also the order dated 8.3.1996 passed in 48D B.T. Act Case no. 24 of 1994-95 by the respondent Circle Officer, Barari, as contained in Annexure-4 to the writ petition, are hereby set aside and quashed, and the entire matter is remitted back to the respondent Circle Officer, Barari with a direction to decide the claim of the petitioner under

Section 48D of the B.T. Act afresh strictly in accordance with law, after following the procedures prescribed under Section 48D of the B.T. Act and the Rules made thereunder, but before passing any final order, opportunity of hearing must be given to all concerned including the petitioner and the respondent no.4, besides others, if any.

6. 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, which may be available to them, before the respondent Circle Officer, Barari.

7. In order to expedite the matter, the petitioner and the respondent no. 4 herein are directed to appear before the respondent Circle Officer, Barari within a period of two months from today with a certified copy of the present order, whereafter the respondent Circle Officer, Barari shall proceed to decide the aforesaid case afresh strictly in accordance with law in the light of observations and directions made above.

8. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to hear their own costs.

(Birendra Prasad Verma, J)

BTiwary/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27-08-2016
Transmission Date	