

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21145 of 2011

With
Interlocutory Application No. 1396 of 2016

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1. Rajan Kumar Singh S/O Surya Narayan Singh, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 2. Krishna Sah S/O Ramayan Sah, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 3. Sheikh Suleman S/O Late Sheikh Isa, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 4. Shukumar Singh S/O Surya Narayan Singh, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 5. Afroj Khan S/O Late Jamadar Khan, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 6. Sheikh Abdul Hassan S/O Late Sheikh Aziz, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 7. Nand Kishor Sah S/O Tulsi Sah, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 8. Nausha Sahin D/O Md. Islam Khan, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 9. Imran Khan S/O Md. Islam Khan Resident Of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 10. Ram Naresh Ram S/O Late Jangi Ram Resident Of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 11. Arif Mohamand S/O Late Dilijan Main, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 12. Issu Miyan S/O Chedi Miyan, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
 13. Mur Mohmand S/O Late Diljan Miyan, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Land Reforms Deputy Collector, West Champaran, Bettiah.
3. The Land Reform Deputy Collector, West Champaran, Narkatiyaganj.
4. Ajit Kumar Rai S/O Mathura Pd. Rai, resident of Village Chankigarh, P.S. Shikarpur, Distt. West Champaran.
5. Bramhdeo Pd. Gupta S/O Not Known, resident of Village Sahebganj, P.S. Chapra, Distt. Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Anupa Nand Jha, Advocate Mr. Santosh Kumar Singh, Advocate
For the Respondent Nos. 1 to 3	: Mr. Pratik Kr. Sinha, AC to GA 5
For the Respondent No.4	: Mr. Pramod Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 23-08-2016

Re: I.A.No. 1396 of 2016

After some argument, the learned counsel appearing on behalf of the petitioners seeks permission to withdraw the present Interlocutory Application.

Permission is accorded.

The Interlocutory Application stands dismissed as withdrawn.

Re: CWJC No. 21145 of 2011

On the request of the parties, the main writ petition has been taken up for consideration on merits.

The petitioners, 13 in number, are aggrieved by the order dated 31.07.2009 passed in Batai Case No. 2/4 of 1971-72 by the respondent DCLR, Narkatiyaganj, West Champaran, as contained in Annexure-3 to the writ petition, whereby batai claim raised by respondent no.4 with respect to the lands in question under Section 48E of the Bihar Tenancy Act, 1885 (in short, “the B.T. Act”) has been allowed and he has been declared bataidar.

Though, the learned counsel appearing on behalf of the petitioners has argued the matter at quite length, but in view of the objections raised by the learned State counsel, appearing on behalf of the respondent nos. 1 to 3 as also the learned counsel appearing on behalf of the respondent no.4. that the impugned order is appealable under Section 48F of the B.T.Act, the learned counsel appearing on behalf of the petitioners seeks permission to withdraw the present writ petition with a liberty to approach the prescribed appellate authority under Section 48F of the B.T.Act for grant of appropriate relief(s) to the petitioners with respect to the lands in question as also the order impugned.

Permission is accorded.

The writ petition stands dismissed as withdrawn with the liberty aforesaid.

It is observed that if an appropriate appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioners for condonation of such delay, then the learned prescribed appellate authority shall take into consideration that on a bona fide legal advice, the present writ petition was filed before this Court on 29.11.2011 and that remained pending till date.

It is further observed that if during the pendency of the present writ petition, the respondent no.5 Bramhdeo Pd.Gupta is found to have died, the petitioners shall be permitted to implead his heirs and legal representatives as party respondents in the aforesaid appeal preferred on behalf of the petitioners and the final order shall be passed by the prescribed appellate authority only after giving an opportunity of hearing to all concerned including the petitioners, respondent no.4 and the heirs and legal representatives of deceased respondent no.5, in case of his death having taken place during the pendency of the present writ petition.

(Birendra Prasad Verma, J)

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