

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14910 of 2011

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Ramswarath Kaper S/O Late Sukhdeo Kaper, R/O Vill. Rampur Nahuain @ Mahuawa, P.S. Parihar, Distt. Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate, Sitamarhi.
3. Dy. Collector, Land Reforms, Sitamarhi Sadar.
4. Anchal Adhikari, Parihar, Distt. Sitamarhi.
5. Ram Nandan Prasad Yadav S/O Late Bindeshwar Yadav, R/O Vill. Rampur Mahuain @ Mahuawa, P.S. Parihar, Distt. Sitamarhi.
6. Bishambar Prasad Tiwari S/O Late Ramswarat Tiwari R/O Vill. Radhaur, P.S. Sursand, Distt. Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Adv.

For the Respondent No.1 to 4:Mr. Ramashray Roy, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 30-08-2016 Heard the parties.

The petitioner is aggrieved by the order dated 13.1.2011 passed in Bataidari Case No. 1 of 2010-11 by the respondent D.C.L.R., Sitamarhi Sadar, as contained in Annexure-2 to the writ petition, whereby batai claim raised on behalf of the respondent no.5 with respect to the lands in question has been allowed.

While assailing the impugned order, the learned counsel appearing on behalf of the petitioner has raised various issues of facts about maintainability of the batai claim raised on behalf of the respondent no.5 as also the compromise arrived at between the respondent nos. 5 and 6 and further about not impleading him as a party respondent in the batai proceeding. He further submits that the order impugned is final in nature under the provisions of The Bihar Tenancy Act, 1885 and no appeal or revision does lie against such order. Therefore, the present writ petition before this

Court.

However, the learned State counsel appearing on behalf of the respondent nos. 1 to 4 has contested the aforesaid submissions. According to the learned State counsel the petitioner has an alternative and efficacious remedy before the learned Bihar Land Tribunal, Patna. Hence, the present writ petition is not maintainable at this stage.

Taking into consideration the rival submissions, this Court is of the opinion that the petitioner has an alternative remedy before the learned Bihar Land Tribunal, Patna in view of the provisions contained in Section 9 of The Bihar Land Tribunal, Act, 2009.

It is well settled principles of law that the issues of facts must be raised and conclusively decided by the statutory authorities and only thereafter the powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioner to approach the learned Bihar Land Tribunal, Patna for grant of appropriate relief(s) with respect to the lands in question as also the order impugned.

(Birendra Prasad Verma, J)

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