

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10263 of 2008

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1. Ajay Kumar Singh son of Late Sikandar Singh
 2. Ashok Singh son of Late Mathura Singh
- Both are residents of village Derwa, Police Station Kudra, District Kaimur (Bhabua)

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Kaimur
 2. The Collector, Kaimur
 3. The Sub-Divisional Officer, Mohania (Kaimur)
 4. The Circle Officer, Kudra (Kaimur)
 5. Lallan Mallah
 6. Lallu Mallah
- Both are sons of Late Bhikhi Mallah, resident of village Deokali, Police Station Kudra, District Kaimur (Bhabua)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate
Mr. Rajesh Kumar Singh, Advocate

For the Respondent Nos. 1 to 4 : Mr. Mani Madhukar, AC to GA 4

For the Respondent No.6 : Mr. B. P. Pandey, Sr. Advocate
Mr. Pravin Sinha, Advocate
Mr. Amit Rana, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 12-07-2016

Heard learned counsel appearing on behalf of the petitioners, the learned State counsel appearing on behalf of the respondent nos. 1 to 4 as also the learned senior counsel appearing on behalf of the private respondents.

2. The petitioners have filed the present writ petition assailing the validity and correctness of the order dated 30.07.2007 passed in Bataidari Revision Case No. 01 of 2004 by the respondent District Collector, Kaimur (Bhabua), as contained in Annexure-3 to the writ petition, whereby aforesaid revision application filed on behalf of the petitioners or their ancestors has been dismissed as not maintainable. The petitioners are also aggrieved by the order dated

28.01.2004 passed in Bataidari Appeal Case No. 1 of 1999-2000 by the respondent S.D.O., Mohania, whereby aforesaid Bataidari appeal filed on behalf of the private respondents was allowed and the matter has been remitted back to the Anchal Adhikari, Kudra with a direction to decide the bataidari claim of the parties afresh in accordance with law.

3. Though, the learned counsel appearing on behalf of the petitioners argued the matter at some length, but he has not been able to show that aforesaid bataidari revision case filed on behalf of the petitioners or their fathers was maintainable. The learned senior counsel appearing on behalf of the private respondents, on the other hand, submits that under The Bihar Tenancy Act, 1885 no such revision application was maintainable before the District Collector; therefore, it has rightly been dismissed. It is further submitted that by the impugned appellate order dated 28.01.2004 (Annexure-2) the matter has been remitted back to the original authority; therefore, this writ petition is not maintainable at this stage.

4. The learned State counsel has adopted the submissions made by the learned senior counsel appearing on behalf of the private respondents.

5. After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that Bataidari Revision Case No. 1 of 2004 has rightly been dismissed by the order dated 30.07.2007, vide Annexure-3, by the respondent District Collector, Kaimur (Bhabua) as not maintainable. In fact, no such revision application is/was maintainable before the respondent District Collector, Kaimur (Bhabua). So far the impugned appellate order dated 28.01.2004, vide Annexure-2, is concerned, apparently by the aforesaid order, the matter has been remitted back to the

Anchal Adhikari, Kudra with a direction to decide the claim of the parties afresh.

6. In view of the aforesaid order of remand, this Court does not feel persuaded to interfere with the impugned appellate order either. Accordingly, the writ petition is dismissed.

7. However, before the original authority, the petitioners as also the private respondents shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to lands in question regarding Bataidari claim raised on behalf of the private respondents.

8. It is further clarified that if any of the parties of the present proceeding is found to have died during the pendency of the writ petition, then their heirs and legal representatives shall be given opportunity of hearing by the original authority before passing any final order in view of the aforesaid remand order.

9. The writ petition stands dismissed with the observations and directions made above.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.07.2016
Transmission Date	