

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.502 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 7375 of 2003

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Rajnandan Mahto Son Of Rajballabh Mahto Resident Of Village- Bahilwara
Dhanki, P.S. Runisaidpur, District Sitamarhi

.... Appellant/s

Versus

1. The State Of Bihar
2. The L.R.D.C., Sitamarhi Sadar, Sitamarhi
3. The Circle Officer, Runisaidpur, Sitamarhi
4. Chandeshwar Sahi Son Of Late Rajendra Sahi Resident Of Village Khaupi,
P.S.- Runisaidpur, District- Sitamarhi
5. Deodhari Mahto Son Of Sukhlal Mahto
6. Smt. Sukumari Devi Daughter Of Ram Prasad Mahto. Both are Residents Of
Village- Bahitwara Dhanuki, P.S.- Runisaidpur, District Sitamarhi

.... Respondent/s

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Appearance :

For the Appellant : Mr. Lakshmi Kant Tiwary, Advocate
For the State : Mr. Kinkar Kumar, SC 9 with
Mr. Zaki Haider, AC to SC 9

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 04-10-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-court appeal is to
the order dated 03.02.2014 passed by the learned Single Bench by
which C.W.J.C. No. 7375 of 2003 filed by the appellant has been
dismissed.

3. The appellant claiming to be the *bataidar* of



respondent no. 4 had filed an application under Section 48E of the Bihar Tenancy Act, 1885 (hereinafter referred to as the 'Act') on 27.05.2000 which was registered as *Batai* Dispute No. 4/2000-2001. The D.C.L.R., being the Collector under the Act, by order dated 28.11.2000, constituted a Board under Section 48E(3) of the Act under the Chairmanship of the Circle Officer, Runisaidpur. In view of the respondent no. 4 not nominating his nominee to the Board, the Circle Officer by order dated 04.06.2002 returned the records to the D.C.L.R. for further orders. The D.C.L.R., in turn, by order dated 04.09.2002, recalled his order constituting the Board and directed the appellant to produce his evidence. Thereafter, by order dated 05.04.2003, the case was dismissed. Challenge to the same by the appellant in C.W.J.C. No. 7375 of 2003 having been rejected by order dated 03.02.2014 by the learned Single Bench has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that once the matter was referred to a Board under the Act, without there being any report given by the Board, the matter could not have been finally disposed off. It was further submitted that the respondent no. 4, who was the land owner, had neither cooperated for the purposes of nominating his nominee to the Board nor during hearing of the matter before the D.C.L.R. and, thus, the dismissal of the *bataidari* case was



not proper. It was further submitted that the D.C.L.R. has also taken into consideration the sequence of events which took place after filing of *bataidari* case and, thus, holding the appellant responsible for not disclosing such fact is not reasonable and proper. It was submitted that the Chairman of the Board, that is, the Circle Officer, was required to take into consideration the amicable settlement of the dispute but the same not having been done has rendered the entire exercise and dismissal of the case unsustainable. It was further submitted that even the order to withdraw the constitution of the Board was not in accordance with law.

5. Learned counsel for the State submitted that the order of the D.C.L.R. has taken into consideration those facts which were relevant and had a direct nexus to the issue involved and, thus, cannot be stated to be extraneous. It was further submitted that it was for the appellant to disclose such facts, since by the time the matter was heard before the D.C.L.R., the events had already taken place and, thus, the same were required to be honestly placed before the D.C.L.R. and the same not having been done is clearly suppression of fact and the case has rightly been dismissed.

6. Having considered the rival contentions, we do not find any merit in the present appeal. The appellant claims to be a *bataidar* on the basis of the land being given since long by the



respondent no. 4. Though initially the matter was referred to the Board, but in view of the fact that within three days the land in question was sold by a registered sale deed to the full brother of the appellant clearly indicates that there was a dispute between the appellant and his brother and the sale deed having been executed after three days of filing of the *bataidari* case is also indicative of the fact that the process for such sale must necessarily have been initiated much prior to filing of the case and could not have been unknown to the appellant. Further, a criminal case has been filed by the brother of the appellant against him for looting crops from the land and also in another criminal case, the appellant himself has given evidence and in the cross examination has accepted that there was no dispute between him and his brother, who is the purchaser of the land in question. Such fact cannot be said to be irrelevant for the purpose of consideration of the case as the land itself stands transferred to the full brother of the appellant and before hearing of the case, the dispute between the brother with regard to the same land was required to be disclosed by the appellant. The same not having been done is indicative of the fact that the appellant has not been fair and truthful to the authority under the Act at the time of hearing of the case filed by him under the Act. Thus, the reasoning of the authority concerned while dismissing the *bataidari* case and of the learned Single Bench dismissing the writ



application cannot be faulted.

7. In view of the aforesaid, we do not find any reason to interfere in the order passed by the learned Single Bench and, accordingly, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/-

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