# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1715 of 2012**
**IN**
**Civil Writ Jurisdiction Case No. 2978 of 2012**

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1. Member, Board of Revenue, State of Bihar Cum Ward Tribunal Bettiah Estate, Bettiah (Properly known as Member Board of Revenue-Cum-Court of Wards, Bihar)
2. The Deputy Secretary, Board of Revenue, Bihar, Patna
3. Administrator, Bettiah Estate, Bettiah (Properly known as Manager, Bettiah Estate, Bettiah)

.... .... Appellants

Versus

1. Suresh Raut, S/o Late Bhola Raut, R/o Bhola M.P. Chowk, Jagjeevan Nagar, P.S.-Bettiah, District- Bettiah (West Champaran)

……Respondent 1st Set.

2. The State of Bihar through Secretary, Department of Revenue, Govt. of Bihar, Patna
3. The Secretary, Department of Revenue, Govt. of Bihar, Patna
4. District Magistrate, West Champaran, Bettiah

.... .... Respondents

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**Appearance :**

For the Appellants : Mr. Binod Kumar, Advocate.
For Respondent 1st Set : Mr. Naresh Dikshit, Advocate.
Mr. Vivek Anand Amritesh, Advocate.
For the State : Kumar Alok, S.C. 8

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**
**and**
**HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)**

**Date: 24-02-2016**

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 16th of August, 2012 in C.W.J.C. No. 2978 of 2012, whereby an order dated 19th December, 2011 declining the representation for not revising the lease rent was set aside.

2. The appellants are the trustees of Bettiah Estate under Court of Wards Act, 1879 (hereinafter referred to as the "Act"). The Respondent No. 1 (hereinafter referred to as the "cultivator") started cultivating the land in question at the rate of Rs. 600/- per acre per year in the year 1999 but in the year 2008

when the cultivator went to deposit the cultivation charges, he was called upon to pay a sum of Rs. 2,000/- per acre. The cultivator submitted a representation to the Administrator, Bettiah Estate on 29th January, 2008, *inter alia,* on the ground that enhancement of cultivation charges have been made unilaterally without issuing any show-cause to the cultivators. It is thereafter the petitioner was informed on 23rd May, 2008 by the Administrator, Bettiah Estate that the cultivation charges of agricultural land leased to the cultivator has been enhanced to Rs. 2,000/- per acre and such decision has been taken in the meeting held on 06.07.2007 under the Chairmanship of Member, Revenue Board, Patna in the presence of District Magistrate, Bettiah and the same has been notified vide letter dated 2nd August, 2008.

3. Petitioner earlier filed a writ application C.W.J.C. No. 13509 of 2008. The said writ application was disposed of with direction to the respondents to consider the objections of the petitioner. It is thereafter, the petitioner submitted representation on 19th of October, 2011 which was rejected on 19th December, 2011. In the counter affidavit, the stand of the present appellant was that a rental of Rs. 600/- per acre per year was fixed in the year 1999 and that the decision was taken to enhance the rent for cultivation of wheat and paddy on 06.07.2007 in view of change of techniques of cultivation, improved rate of yield etc. Thereafter a decision was again taken on 1st July, 2008 to increase the rate of rent from Rs. 600/- to Rs. 2,000/- per acre. It is pointed out that the decision of enhancement has been taken in the interest of the Estate. If the rate is not acceptable to the cultivator, he has the option to quit and that Bettiah Estate is not obliged to undertake the cultivation through the petitioner at a lower rate against the interest of the Estate. All other similarly situated persons cultivating the land are paying at the enhanced rate of land.

4. The learned Single Judge allowed the writ petition returning a finding that Bettiah Estate is a State within the meaning of Article 12 of the Constitution of India as it is a Statutory Authority within the territory of India and that the impugned order does not provide for any reason in support of the revision of lease rent from Rs. 600/- to Rs. 2,000/-per acre. The same is reflective of imperialistic character; colonial mind set and suffers from the vice of arbitrariness.

5. Learned counsel for the appellant has vehemently argued that both the findings are incorrect. The cultivator is a licensee and not protected by any Statute. As a licensee, he is given permission to cultivate land on year to year basis without any right attached to the land. Therefore, if the terms of licence are not acceptable to him, the licensor is not obliged to grant licensee on the conditions which are not acceptable to the licensor. Still further, we find that the Board of Revenue managing Bettiah Estate is not a Statutory Authority as a Court of Wards but it is trustee regulated by the Act.

6. The rights and liabilities of a trustee such as Board of Revenue have to be found in the Statute itself. The trustee of a private Estate is not an State within the meaning of Article 12 of the Constitution of India as it is managing a private property i.e. Bettiah Estate. A trustee under the Act is not a State since it is managing private property though governed by a Statute. We thus find that the findings of the learned Single Bench are not sustainable in law. The trustees are bound to comply with the statutory provisions and the rules of natural justice but it would not make the appellant a State.

7. Learned counsel for the cultivator could not dispute the contention of the appellant that cultivator is a licensee as the permission to cultivate land has been granted on year to year basis. As a licensee, the cultivator

has no right attached to the land. He is bound to return the possession of the land by the end of each year and renew the same on such conditions as the licensor may find just, fair and reasonable. The licensee can reject the conditions of license at his own peril but cannot dictate that the licensor cannot charge the licence fee which the licensor considers just, fair and reasonable. The licence fee was fixed at Rs. 600/- per year in the year 1999 and revision of the same in the year 2008, after eight years, cannot be said to be imperialistic or of colonial mind set suffering from the vice of arbitrariness. As a trustee of the Estate, the Board of Revenue is to watch the interest of the Estate; else, it would be guilty of dereliction of duty. To discharge the duties as the trustee, the Board of Revenue is expected to take all steps which are just, fair and reasonable, not only to protect the property but to earn reasonable amount of income from the land. The decision of the Board of Revenue to increase the lease after eight years is just, fair and reasonable and in the interest of Bettiah Estate which has been illegally interfered with by the learned Single Bench on wholly untenable grounds.

7. The Board of Revenue is the Court of Wards for the State of Bihar in terms of Section 5 of the Act. It has power to take charge of the property of certain persons as mentioned in Section 6 and also of the Trust Estates in terms of Section 50-B of the Act. Section 50C contemplates that the manager shall deal with the trust property as carefully as a man of ordinary prudence would deal with such property if it were his own and the manager so dealing shall not be responsible for the loss, destruction or deterioration of the trust property. In terms of Part VI-A of the Act of which Section 50-B and 50-C are the part, the Board of Revenue has the responsibility of maintaining the trust property in a prudent manner as a reasonable person would protect his property.

8. Thus, we find that the findings recorded by the learned

Single Bench are not sustainable in law. Consequently, we allow the present Letters Patent Appeal and dismiss the writ petition filed by the cultivator.

**(Hemant Gupta, J)**

**(Navaniti Prasad Singh, J)**

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