

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13052 of 2002

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Krishna Uraon, son of late Manglu Uraon, resident of village-Maharajganj
Madhopara, P.S.-Khajanchi Hat, District-Purnia.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Collector Land Reforms at Sadar, Purnia within the District of Purnia.
3. Dolly Sen, daughter of late Aswani Sen, resident of mohalla-Khajanchi Jhanda Chowk, Purnia, P.S.-Khajanchi Hat, District-Purnia
4. Shri Prashanto Kumar Sen, son of late Prafullo Kumar Sen.
5. Shri Dr. Prasenjit Sen, son of late Nirmal Kumar Sen.
6. Shri Pradeep Kumar Sen, son of late Pravir Kumar Sen.
7. Mrs. Ratna Sen Gupta, wife of Mr. Sumanto Sen Gupta and daughter of late Prafullo Kumar Sen.
8. Shri Bapi Ghosh, son of late Ranjit Ghosh daughter's son of late Prafullo Kumar Sen

No.4 to 8 are the heirs of late Prafullo Kumar Sen of Mohalla-Khajanchi Jhanda Chowk, Purnia, P.S.-Khajanchi Hat, District-Purnia but they reside in Calcutta and residing at Flat 2G, Naba Kailsh Co-operative Housing Society 55/4, Ballyganj Circular Road, Calcutta-700019.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Arun Prasad Ambastha, Adv. Mr. Binay Kumar Sinha, Adv.
For the Respondent nos.1&2	: Mr. Prabhakar Jha, GP-27 Mr.Shankar Kumar Thakur, AC to GP-27
For the Respondent nos.3to8	: None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 06-09-2016

Heard the learned counsel appearing on behalf of the petitioner and the learned GP-27 appearing on behalf of the respondent nos.1 and 2. However, none appears on behalf of the private respondent nos.3 to 8, though the notices were issued to them earlier, which have been validly served.

The petitioner is aggrieved by the order dated 07.11.2001 passed in Case No.3 of 2001-02 by the respondent D.C.L.R., Sadar, Purnia, as contained in Annexure-4 to the writ

petition, whereby the aforesaid batai case filed on behalf of the petitioner under Section 48-E of The Bihar Tenancy Act, 1885 (in short B.T. Act) has been rejected at the very threshold at the stage of 48-E(1) of the B.T. Act, but by recording a long order after looking into the merits of the case of the parties.

The learned counsel appearing on behalf of the petitioner submits that the impugned order passed by the respondent D.C.L.R., Sadar, Purnia is in teeth of the judicial pronouncements made by a Special Bench of this Court in the case of **Dhanji Singh Vs. The State of Bihar & Ors. [1979 PLJR 247; 1979 BBCJ 521]** and, therefore, on that ground alone, the impugned order is not sustainable. It is also contended that, at that stage, the respondent D.C.L.R., the Collector under the B.T. Act, was required to find out only a prima facie case of bonafide batai dispute between the parties, but, at that stage, he could not have held a parallel enquiry or mini trial for rejecting the batai claim of the petitioner.

The learned GP-27 appearing on behalf of the respondent nos.1 and 2, though has opposed the prayer, but has not disputed the aforesaid submissions made by the learned counsel appearing on behalf of the petitioner. As noticed above, the private respondent nos.3 to 8 have chosen not to appear and contest the matter despite valid service of notice upon them.

In above view of the matter, particularly in view of the principles enunciated by a Special Bench of our own High Court in the case of **Dhanji Singh Vs. The State of Bihar & Ors. (supra)** especially in paragraph nos. 7, 11 and 14, the impugned order dated 07.11.2001 passed in Case No.3 of 2001-02 by the respondent D.C.L.R., Sadar, Purnia, as contained in Annexure-4 to the writ petition, is hereby set aside and quashed, and the matter is remitted

back to the respondent D.C.L.R., Sadar, Purnia with a direction to refer the matter to the duly constituted Batai Board under the provisions of Section 48-E of the B.T. Act and thereafter the matter shall be taken to its logical conclusion strictly in accordance with law, but, before constitution of Batai Board, the private respondent nos.3 to 8 shall be given one more opportunity to nominate their panches.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above.
No costs.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	09.09.2016
Transmission Date	