

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21318 of 2014

=====

Bhola Khatway @ Bhola Sharma son of Late Color Khatway, resident of village-Nandana. P.S. - Jadia, Distt.- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District, Supaul.
3. Deputy Collector Land reform, Supaul.
4. Anchal Adhikari, Trivveniganj, Supaul.
5. Meera Devi Choudhary, wife of Late Rajendra Choudhary
6. Arun Choudhary, son of Late Rajendra Choudhary
7. Prabhat Choudhary, son of Late Rajendra Choudhary All residents of village-Chainpur, P.S. Kumar Khand, Distt.- Saharsa.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 21377 of 2014

=====

Raghunandan Sharma @ Ragnandan Khatway, Son of Late Ram Lal Khatway. Resident of Village - Nandana. P.S.- Jadia, Distt.- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District, Supaul.
3. Deputy Collector Land Reform, Supaul.
4. Anchal Adhikari, Trivveniganj, Supaul.
5. Meera Devi Choudhary. Wife of Late Rajendra Choudhary.
6. Arun Choudhary. Son of Late Rajendra Choudhary.
7. Prabhat Choudhary. Son of Late Rajendra Choudhary, All Residents of Village - Chainpur. P.S.- Kumar Khand, Distt.- Saharsa.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 21378 of 2014

=====

Umesh Sharma @ Umesh Khatway. Son of Late Bindeshwari Kathway and Late Jahni Devi. Resident of Village - Nandana. P.S.- Jadia, Distt.- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District, Supaul.
3. Deputy Collector Land Reform, Supaul.
4. Anchal Adhikari, Trivveniganj, Supaul.

- 5. Meera Devi Choudhary. Wife of Late Rajendra Choudhary.
- 6. Arun Choudhary. Son of Late Rajendra Choudhary.
- 7. Prabhat Choudhary. Son of Late Rajendra Choudhary, All Residents of Village - Chainpur. P.S.- Kumar Khand, Distt.- Saharsa.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 21662 of 2014

Ramesh Sharma @ Ramesh Khatway Son of Late Bindeshwari Khatway, Resident of Village - Nandana. P.S- Jadia, Distt- Supaul

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Collector of District - Supaul.
- 3. Deputy Collector Land Reforms, Supaul.
- 4. Anchal Adhikar, Trivveniganj, Supaul
- 5. Meera Devi Choudhary Wife of Late Rajendra Choudhary
- 6. Arun Choudhary Son of Late Rajendra Choudhary
- 7. Prabhat Choudhary Son of Late Rajendra Choudhary, All resident of Village - Chainpur, P.S- Kumar Khand, Distt- Saharsa.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 21783 of 2014

Baleshwar Sharma @ Baleshwar Khatway Son of Late Mohan Khatway, Resident of village- Nandana, P.S.- Jadia, District-Supaul.

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Collector of the District, Supaul
- 3. Deputy Collector Land Reform, Supaul
- 4. Anchal Adhikari, Trivveniganj, Supaul.
- 5. Meera Devi Choudhary Wife of Late Rajendra Choudhary
- 6. Arun Choudhary Son of Late Rajendra Choudhary
- 7. Prabhat Choudhary Son of Late Rajendra Choudhary, All resident of village- Chainpur, P.S. Kumar Khand, District-Saharsa.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 22097 of 2014

- 1. Zakir Mian

2. Mohiuddin Mian
3. Mehdi Mian, All sons of Late Ismail Mian resident of village - Nandana, P.S. -
Jadia, Distt. Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District Supaul.
3. Deputy Collector Land Reform, Supaul.
4. Anchal Adhikari, Triveniganj, Supaul.
5. Nawal Kishore Choudhary wife of Late Ziya Lal Choudhary
6. Arun Kumar Jaiswal son of Late Baijnath Singh
7. Shiv Kumar Jaiswal son of Baijnath Singh, All residents of village - Chainpur,
P.S. Kumar Khand, Distt. - Saharsa.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 22114 of 2014

Ashok Sharma @ Ashok Khatway son of Late Khikhar Khatway, resident of village
- Nandana, P.S. - Jadia, Distt. Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District, Supaul.
3. Deputy Collector Land Reforms, Supaul.
4. Anchal Adhikari, Triveniganj, Supaul.
5. Meera Devi Choudhary wife of Late Rajendra Choudhary
6. Arun Choudhary son of Late Rajendra Choudhary
7. Prabhat Choudhary son of Late Rajendra Choudhary, All residents of village -
Chainpur, P.S. Kumar Khand, Distt. - Saharsa.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 22137 of 2014

1. Bhumi Sharma @ Bhumi Khatway son of Late Medhu Khatway
2. Sunil Sharma @ Sunil Khatway son of Late Ram Chandra Khatway, Both
residents of village - Nandana, P.S. - Jadia, Distt. - Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District Supaul.
3. Deputy Collector Land Reforms, Supaul.
4. Anchal Adhikari, Triveniganj, Supaul.
5. Madan Choudhary wife of Late Banarsi Choudhary

6. Malti Choudhary son of Madan Mohan Choudhary, All residents of village - Chainpur, P.S. Kumar Khand, Distt. - Saharsa.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 22190 of 2014

=====

1. Arjun Khatway @ Agun Sharma
2. Chhotelal Khatway @ Chhotelal Sharma
3. Radhey Shyam Khatway @ Radhey Shyam Sharma, all sons of Late Tarni Khatway, resident of village - Nandana, P.S. - Jadia, Distt. Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector of the District, Supaul.
3. Deputy Collector Land Reforms, Supaul.
4. Anchal Adhikari, Triveniganj, Supaul.
5. Meera Devi Choudhary wife of Late Rajendra Choudhary
6. Arun Choudhary son of Late Rajendra Choudhary
7. Prabhat Choudhary son of Late Rajendra Choudhary, All residents of village - Chainpur, P.S. Kumar Khand, Distt. - Saharsa.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 21279 of 2014

With

Interlocutory Application No. 6491 of 2016

=====

Dhorai Sharma @ Dhorai Khatway son of Late Upti Khatwat, resudent of village- Nandana, P.S.- Jadia, Distt. - Supaul

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector of the District, Supaul
3. Deputy Collector Land Reform, Supaul
4. Anchal Adhikari, Trivveniganj, Supaul
5. Madan Chouodhary, wife of Late Banarasi Choudhary
6. Malti Choudhary son of Madan Mohan Choudhary, All resident of village- Chainpur, P.S. Kumar Khand, Distt.- Saharsa

.... Respondent/s

=====

Appearance :

(In CWJC No.21318 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 :Mr. Subodh Kr. Mishra, AC to G.P. 14

(In CWJC No.21377 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Rakesh Kr. Shrivastava, AC to G.P. 15

(In CWJC No.21378 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Vivek Prasad, G.P. 7
Mr. S.K. Saraf, AC to G.P. 7

(In CWJC No.21662 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Prashant Pratap, G.P. 2
Mr. Lala S.N. Rai, AC to G.P. 2

(In CWJC No.21783 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Dr. Anil Kr. Upadhyay, S.C. 2
Mr. Naresh Prasad, AC to SC-2

(In CWJC No.22097 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Rajiv Roy, G.P. 1
Mr. Arun Kumar, AC to G.P. 1

(In CWJC No.22114 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Subodh Kr. Mishra, AC to G.P. 14

(In CWJC No.22137 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. R.B. Prasad Yadav, AC to AAG-11

(In CWJC No.22190 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Mujtabaul Haque, G.P. 12

(In CWJC No.21279 of 2014)

For the Petitioner/s : Mr. Devendra Prasad, Adv.
Mr. Kumar Malendu, Adv.

For the Respondent Nos. 1 to 4 : Mr. Subodh Kr. Mishra, AC to G.P. 14

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 20-09-2016

In all the above ten writ petitions, issues of facts and issues of law are almost common and identical; therefore, on the request of the parties, all these matters have been heard together and are being

disposed of by this common order/judgment.

2. The petitioner(s) of each writ petition have raised their grievance before this Court that they have filed their separate petitions under Section 48D of The Bihar Tenancy Act. 1885 (In short 'B.T. Act') before the respondent Anchal Adhikari, Triveniganj in the district of Supaul for granting them raiyati right over the lands in question, which are the subject matter of consideration in all these writ petitions, but the cases filed by them are not being finally disposed of and have been kept pending unnecessarily for quite a long time. Therefore, a direction has been sought on behalf of these petitioners to the respondent Anchal Adhikari, Triveniganj for disposal of all those cases, filed by these petitioners, at an early date in accordance with law.

3. The learned counsel appearing on behalf of the petitioners submitted that the petitioners or their ancestors had filed their separate applications under Section 48E of the B.T. Act in the year 1975-76 and, accordingly, Batai Case No. 161 of 1975-76 and its analogous cases were initiated by the respondent D.C.L.R., Supaul, and finally by separate orders dated 30.11.1977, their batai claims under Section 48E of the B.T. Act was allowed with respect to the lands in question on the basis of recommendations made by the duly constituted Batai Board, and all of them were declared bataidars over the lands in question. It is pointed out that the landholders or their ancestors, being aggrieved by the aforesaid order of the respondent D.C.L.R., Supaul, preferred an appeal under Section 48F of the B.T. Act before the respondent District Collector, Supaul and the District Collector, Supaul allowed the aforesaid appeal preferred on behalf of the landholders and remitted the matter back to the original authority for passing a fresh order. However, the petitioners or their ancestors,



being aggrieved by the aforesaid order passed by the District Collector, Supaul, filed CWJC No. 102 of 1979 challenging the validity and correctness of the order passed by the respondent District Collector, Supaul, as also the consequential order passed by the Sub-Divisional Officer, Supaul. The landholders had also approached this Court in CWJC No. 1590 of 1979 for grant of appropriate reliefs and for quashing the original order dated 30.11.1977 passed by the respondent D.C.L.R., Supaul.

4. It is not in dispute that both the aforesaid writ petitions vide C.W.J.C. No. 102 of 1979 and C.W.J.C. No. 1590 of 1979 were heard together and by order and judgment dated 7th October, 1985, a Division Bench of this Court allowed the writ petition filed on behalf of these petitioners or their ancestors and affirmed the order dated 30.11.1977 (Annexure-1) passed by the respondent D.C.L.R., Supaul, but the writ petition filed on behalf of the landholders or their ancestors being CWJC No. 1590 of 1979, was dismissed. The aforesaid order and judgment dated 7th October, 1985 passed by a Division Bench of this Court has been brought on the record as Annexure-2 to the writ petition in all the cases. Thereafter, the landholders or their ancestors, being aggrieved by the judgment and order passed by the Division Bench of this Court, approached the Hon'ble Supreme Court in Civil Appeal Nos.244-45 of 1993, but that appeal was dismissed by the Hon'ble Apex Court by order dated 5th April, 2000 (Annexure-3). Thereafter, the petitioners filed their separate applications under Section 48D of the B.T. Act, as a result of which, Case No. 6 of 2014 and other analogous cases have been registered by the respondent Anchal Adhikari, Triveniganj.

5. Now, the grievance of the writ petitioners is that though separate cases filed by them under Section 48D of the B.T. Act have



been registered by the Anchal Adhikari, Triveniganj, but on certain flimsy grounds no final order is being passed by him for the reasons best known to him. The learned counsel appearing on behalf of the petitioners submits that in view of the earlier order dated 30.11.1977 (Annexure-1) passed by the respondent D.C.L.R., Supaul, which was affirmed by the Judgment and order dated 7th October, 1985 (Annexure-2) of this Court and further affirmed by the Hon'ble Supreme Court vide order as contained in Annexure-3, the claim raised on behalf of the petitioners under Section 48D of the B.T. Act is fit to be allowed. Therefore, it is pleaded that an appropriate direction may be issued to the respondent Anchal Adhikari, Triveniganj to dispose of all the cases filed on behalf of the petitioners under Section 48D of the B.T. Act within a particular time frame.

6. In all these writ petitions separate counter-affidavits have been filed on behalf of the official respondents. Mr. Rajiv Roy, the learned G.P. 1, Mr. Vivek Prasad, the learned G.P. 7 and the other learned State counsel appearing on behalf of the official respondents in all these writ petitions, have argued the matter at length and they pointed out that, in fact, since the petitioners are not producing the certified copy of the order passed by the respondent D.C.L.R., therefore, the matters are not being disposed of by the respondent Anchal Adhikari, Triveniganj. However, they have not disputed the factum of passing of the order by the respondent D.C.L.R., Supaul allowing the batai claims of the petitioners or their ancestors u/s 48E of the B.T. Act, as also the order and judgment passed by a Division Bench of this Court and the Hon'ble Apex Court, which all have been brought on record as Annexure-1 to 3 respectively. The learned State counsel are unanimous in their submissions that if the petitioners of these writ petitions produce all the relevant documents before the

respondent Anchal Adhikari, Triveniganj, then their cases shall be decided in accordance with law within the time framed by this Court.

7. After having heard the parties and taking into consideration the admitted position that the claims raised on behalf of the petitioners or their ancestors under Section 48E of the B.T. Act with respect to the lands in question was allowed, which was affirmed by a Division Bench of this Court vide judgment and order as contained in Annexure-2 and was not interfered with by the Hon'ble Apex Court vide the order as contained in Annexure-3, this Court is of the opinion that once the petitioners have filed their petitions under Section 48D of the B.T. Act, then the same are required to be taken to their logical conclusion in accordance with law by the respondent Anchal Adhikari, after consideration of all the materials produced by the parties and after giving an opportunity of hearing to them. The cases filed by the petitioners under Section 48D of the B.T. Act may be allowed or may be dismissed, but in no case, the respondent Anchal Adhikari, Triveniganj can sit tight over the matter for an indefinite period.

8. For the reasons recorded above, the respondent Anchal Adhikari, Triveniganj is hereby directed to take up all the cases filed on behalf of the petitioners under Section 48D of the B.T. Act for its final disposal at an early date, but before passing any final order, reasonable opportunity of hearing must be given to the petitioners as also the private respondents of each case. They shall also be given an opportunity to produce their relevant documents/ evidence in support of their cases and only thereafter, the final order regarding claims of the petitioners under Section 48D of the B.T. Act shall be passed.

9. It is also clarified that the respondent Anchal Adhikari, Triveniganj shall not insist for filing certified copy of the order passed

by the respondent D.C.L.R., Supaul. The Photocopy of the order, annexed with the writ petitions, shall be allowed to be filed by the petitioners in support of their claims that their Batai claims under Section 48E of the B.T. Act was allowed by the respondent D.C.L.R., Supaul. If need be, the respondent Anchal Adhikari, Triveniganj shall be at liberty to summon the original records for his satisfaction.

10. In the given facts of the case, the respondent Anchal Adhikari is further directed to complete the entire exercise within a maximum period of six months from the date of receipt/ production of a copy of this order. The petitioners are hereby directed to appear before the respondent Anchal Adhikari, Triveniganj within a period of one month from today with a certified copy of the present order.

11. This is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioners with respect to the lands in question and this is left to be decided by the respondent Anchal Adhikari strictly in accordance with law.

12. I.A. No. 6491 of 2016 filed by the heirs and legal representatives of the petitioner of C.W.J.C. No. 21279 of 2014 for their substitution is allowed and they shall be permitted to prosecute the case filed by the original petitioner before the respondent Anchal Adhikari, Triveniganj.

13. All these writ petitions stand finally disposed of, with the observations and directions made above.

(Birendra Prasad Verma, J)

BTiwary/-

AFR/NAFR	
CAV DATE	
Uploading Date	23-09-2016
Transmission Date	