

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11818 of 2009

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1. Ram Pukar Sah son of Shree Rameshwar Sah, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.
 2. Nagendra Sah son of Shree Rameshwar Sah, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Revenue, Bihar, Patna.
3. The Collector, Sheohar.
4. The Sub-Divisional Officer, Sheohar.
5. The Circle Officer, Piprahi, District- Sheohar.
6. Rameshwar Sah, son of late Jokhu Sah, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.
7. Nandlal Sah son of Shri Rameshwar Sah, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.
8. Ram Pravesh Rai @ Ketari, son of Late Yogendra Rai, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.
9. Ram Awadhesh Rai, son of late Yogendra Rai, resident of village- Ambakala, P.S. Piparahi, District- Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent No.1 to 5: Mr. Manish Kumar, G.P.-8

For the Respondent No. 8 & 9: Mr. B.N.P.Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 09-02-2016 The petitioners are aggrieved by the resolution dated 28.05.2008 passed by an *Aam-Sabha (Bhakti-Sabha)* held under the joint Chairmanship of S.D.O. and S.D.P.O., Sheohar, whereby the claims of the petitioners vis- a- vis private respondent no. 8 and 9 with respect to the lands in question, detailed in paragraph-3 of the writ petition, have been resolved.

Though, none appears on behalf of the petitioners in support of the present writ petition, however, the learned G.P.-8 appearing on behalf of the respondent no. 1 to 5 and the learned counsel appearing on behalf of the respondent no. 8 and 9 have been heard.



The learned G.P.-8 as also the learned counsel appearing on behalf of the respondent no. 8 and 9 though argued the matter for sometime, but they have not been able to show that either the S.D.O., Sheohar or the S.D.P.O., Sheohar had any power under any particular statute to get a declaration made regarding the lands in question by a resolution of an *Aam- Sabha/ Bhakti Sabha*. However, the learned G.P. 8 has tried to submit that this resolution was passed purportedly under the provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (In short 'Act, 1947') and the Rule made thereunder.

On examination of the materials available on record, this Court finds that the impugned resolution of the *Aam-sabha* is contrary to the statutory provisions of the Act, 1947 and the Rules made thereunder. In fact, there is no such provisions either under Act, 1947 or the Rules made thereunder.

After having heard the learned G.P. 8 as also the learned counsel appearing on behalf of the respondent no. 8 and 9 and on going through the provisions of the Act, 1947 and the Rules made thereunder, this Court finds that the impugned resolution, as contained in Annexure-3, is contrary to the statutory provisions of the Act, 1947 and the Rules made thereunder. Neither the S.D.O. nor the S.D.P.O. have been vested with such powers for getting the claims of the parties decided under the Act, 1947 and the Rules made thereunder, in the manner as indicated in Annexure-3.

The impugned resolution dated 28.05.2008 being contrary to the statutory provisions is hereby set aside and quashed. However, the parties shall be at liberty to get their claim decided with respect to the lands in question by filing an appropriate petition before the appropriate forum/ authority/ court.

If such claim is raised either on behalf of the petitioners or by the private respondents, then the same shall be decided in accordance with law without being prejudiced by the present order.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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