

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1042 of 2016
In
Civil Writ Jurisdiction Case No. 12647 of 1996**

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Chandraloki Ram, Son of Dhanpat Ram, Resident of Village- Pahleza Tola Madhu
Sharma Chowki, PO Jaipur, PS Mehendia District Jehanabad.

..... Respondent No. 7/ Appellant/s
Versus

1. The State of Bihar
2. The Sub-Divisional Officer, Jehanabad.
3. The Sub-Divisional Officer, Arwal.
4. Ram Das Ram Son of Tulsi Ram
5. Kamlesh Ram Son of late Bhola Ram
6. Kameshwar Ram son of Yadunandan Ram
7. Raghunath Ram Son of Lakhnan Ram, respondent no. 4 to 7 are resident of
village- Pahleza tola Madhu Sharma Chowki, Po Jaipur Ps Mehendia, District
Jehandia. Respondents/Respondents
8. Lal Narayan Singh, son of Late Bachcha Prasad Singh, resident of Village –
Pahleza, Police Station Mehendia, Distt. Jehanabad
.....Writ Petitioner/ Respondents

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Appearance :

For the Appellant/s : Mr. Alok Kumar Choudhary
Mr. Kulanand Jha
For Respondent No.8 : Mr. Siya Ram Shahi

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-08-2017

Seeking exception to an order dated 19.05.2015 passed
by the learned Writ Court in CWJC No. 12647 of 1996, this appeal
has been filed under Clause 10 of the Letters Patent.

There is a delay of 315 days in filing the appeal. I.A. No.
4032 of 2016 has been filed praying for condonation of the delay. In
view of the reasons and submissions made in support thereof, this



application is allowed. Delay in filing the appeal is condoned.

The appellant herein was one of the respondents in the writ petition and the writ petition in question was filed by respondent no.8 - Lal Narayan Singh, challenging the order dated 24.02.1996, passed in a proceeding held under Section 48(e) of the Bihar Tenancy Act (hereinafter referred to as 'the Act') by the statutory authority. Even though learned counsel for the appellant by placing reliance of an order dated 17.02.2005 in LPA No.978 of 2003 tried to argue that in such cases interference should not be made by the Writ Court. But on going through the judgment of the learned Writ Court and considering the submissions made by Shri Siya Ram Shahi, learned counsel for the respondent, we find that earlier the appellant herein had filed CWJC No. 5971 of 1991 challenging the earlier order passed on 15.03.1991 by the DCLR rejecting their claim as *Bataidars* and passed a common order dated 03.08.1992 not only in CWJC No. 5971 of 1992 but in various other cases reported in **1992 (2) PLJR 747 (Brijendra Kr. Narain Singh vs. State of Bihar)** a Division Bench of this Court allowed the writ petition and quashed the order passed by the Writ Court. By another order passed on 03.08.1992 in CWJC No. 5971 of 1992 filed by the respondents herein who are *Bataidars* were also dismissed. That apart, finding that in CWJC No. 7103 of 1991 identical cases have



been dismissed, the learned Writ Court has refused to interfere into the matter by holding that respondent nos. 4 to 8 had again filed the proceedings under Section 48 of the Act and the impugned order passed by the S.D.O. is nothing but an act to overreach the order already passed in the earlier proceedings by this Court between the same parties. Taking note of all these factors and the fact that identical questions have been decided in two writ applications by this Court in CWJC No.11277 of 1996 and CWJC No. 7129 of 1996, the writ petitions have been dismissed.

We find that from the detailed order passed by the learned Writ Court it is clear that in the earlier round of litigation between the parties the matter had attained finality as is evident from the detailed order passed by the Writ Court and taking note of the actions of the SDO in proceeding further inspite of the finality attained, we see no reason to indulge into the matter. It is seen that once the litigation between the parties had come to a finality, the second round of litigation with regard to the same issue is not legally permissible and that being the framed consideration which resulted into dismissal of the orders under the Tenancy Act allowing the writ petition.

We see no error in the order of the learned Writ Court warranting any interference into the present appeal. The appeal is,



therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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CAV DATE	N.A.
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