

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1431 of 2013
Arising out of
Civil Writ Jurisdiction Case No. 5007 of 2005**

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Smt. Sumitra Devi, Wife of Sri Gopal Prasad Singh, Resident of Mohalla-
Dariyapur Gola, P.S.- Kadamkuan, District- Patna

.... Appellant/s

Versus

1. The State of Bihar through the District Magistrate, Patna
2. Brij Nandan Gope, Son of Sri Shyam Narayan Gope, Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
3. Ram Ratan Gope @ Ram Jatan Gope, Son of Late Beni Gope, Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
4. Krishna Gope, Son of Ram Ratan Gope @ Ram Jatan Gope, Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
5. Dayanand Yadav Son of Ram Ratan Gope @ Ram Jatan Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
6. Shyam Narayan Gope Son of Late Beni Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
7. Rampati Gope Son of Late Beni Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
8. Om Prakash Yadav Son of Sri Rampati Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
9. Baiju Yadav Son of Sri Rampati Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
10. Ramsewak Gope Son of Late Beni Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
11. Bijendra Yadav Son of Ramsewak Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
12. Subhas Yadav Son of Ramsewak Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
13. Umesh Yadav Son of Ramsewak Gope Resident of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
14. The Bihar State Finance Service House Construction Cooperative Society Through Its Honorary Secretary Arun Kumar Sinha, 407, Tara Tower, North Shastri Nagar, Bailey Road, Patna-23

.... Respondent/s

with

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**Letters Patent Appeal No. 1447 of 2013
Arising out of
Civil Writ Jurisdiction Case No. 4517 of 2005**

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Gopal Prasad Singh, Son of Late Sri Raghubansh Prasad Singh Resident of
Mohalla- Nala Road, P.S.- Kadam Kuan, District- Patna

.... Appellant/s



Versus

1. The State of Bihar through the District Magistrate, Patna
2. Brij Nandan Gope Son of Sri Shyam Narayan Gope, Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
3. Ram Ratan Gope @ Ram Jatan Gope Son Of Late Beni Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
4. Krishna Gope Son Of Late Ram Jatan Gope @ Ram Ratan Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
5. Dayanand Yadav Son Of Ram Ratan Gope @ Ram Jatan Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
6. Shyam Narayan Gope Son Of Late Beni Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
7. Rampati Gope Son Of Late Beni Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
8. Om Prakash Yadav Son Of Sri Rampati Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
9. Baiju Yadav Son Of Sri Rampati Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
10. Ramsewak Gope Son Of Late Beni Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
11. Bijendra Yadav Son Of Ramsewak Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
12. Subhas Yadav Son Of Ramsewak Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
13. Umesh Yadav Son Of Ramsewak Gope Resident Of Village- Daud Bigha, P.S.- Sultanganj, District- Patna
14. The Bihar State Financial Service House Construction Cooperative Society Through its Honorary Secretary Arun Kumar Sinha, 407, Tara Tower, North Shastri Nagar, Bailey Road, Patna- 23

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar Singh, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, S.C. 19
Mr. Abhilesh Kumar Sinha, A.C. to S.C. 19

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-05-2017

Seeking exception to orders dated 10.09.2013 passed
by the learned Writ Court in C.W.J.C. No. 4517 of 2005 and 5007 of
2005 dismissing the writ petitions filed by the appellants, these



appeals have been filed under Clause 10 of the Letters Patent.

2. Facts in brief go to show that the writ petitioners had purchased small pieces of land and it is said that they have constructed certain houses on the plot so purchased. However, certain land acquisition proceedings took place and records indicate that various rounds of litigation were held with regard to the acquisition in question, which has been known as the acquisition for the Bihar State Financial Service House Construction Cooperative Society. The acquisitions were made in the year 1981 and the learned Writ Court found that many persons like the appellants had constructed the house may be after purchase of the house prior to acquisition. Various writ petitions were filed and thereafter matter travelled to the Supreme Court and finally the Supreme Court decided the matter in the case of **Ashish Sahkari Grih Nirman Samiti Vs. The State of Bihar and others- (2008) 5 SCC 350** and by virtue of the decision rendered in the aforesaid case, the legality of the acquisition was put to rest and the entire acquisition was approved. The learned Writ Court found that now the petitioners contend that because of lack of knowledge or non-receipt of notice of acquisition under Section 4 their acquisition is illegal. The learned Writ Court refused to consider this aspect after the matter has been settled by the Supreme Court in the case of **Ashish Sahkari Grih Nirman Samiti** (supra). The learned Writ



Court took note of subsequent contempt proceedings initiated against the State of Bihar for violation of the Supreme Court judgment and action taken for allotting another land to the Society. The learned Writ Court found that the issue in question has already been settled by the Hon'ble Supreme Court and, therefore, now with regard to the issue pertaining to acquisition the matter cannot be reopened.

3. Even though learned counsel for the appellants by placing heavy reliance and taking us through the judgment in the case of **Ashish Sahkari Grim Nirman Samiti** (supra) tried to indicate that the case of the appellants are different, they are still in possession and now by virtue of the provisions of Section 24 of the Right to Fair Compensation and Transparency Act, 2013 the petitioners being in possession, they are entitled to relief.

4. However, we find that neither in the Writ Court nor before any other authority such a ground was raised. It seems to have been raised for the first time before us in these appeals. The question of right available to the appellants under Section 24 of the Right to Fair Compensation and Transparency Act being a mixed question of law and fact cannot be considered at this stage in these appeals. The appellants if permitted under law, may raise the grievance before an appropriate authority or forum in accordance with law, but at this stage, in these appeals when such question was never canvassed



before the learned Writ Court, we see no reason to make any indulgence into the matter.

5. With the foresaid observations, finding no case for making any indulgence into the matter, for the present, we dispose of these Letters Patent Appeals.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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