

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1436 of 2013

In

Civil Writ Jurisdiction Case No.16214 of 2007

KAMLI DEVI WIFE OF BRAJ LAL SOREN RESIDENT OF VILLAGE-
HRIDAYAGANJ SANTHAL TOLA, POLICE STATION- KATIHAR,
DISTRICT- KATIHAR

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Collector, Katihar
3. The Sub Divisional Officer, Katihar
4. The Dy. Collector, Land Reforms, Katihar
5. The Circle Officer, Katihar
6. Manjoor Ali Son Of Late Samsuddin Resident Of Village- Hajipur, P.S. Katihar, District- Katihar
7. Fajloo Ali Son Of Late Samsuddin Resident Of Village- Hajipur, P.S. Katihar, District- Katihar
8. Kaloo Rehman Son Of Late Samsuddin Resident Of Village- Hajipur, P.S. Katihar, District- Katihar
9. Secretary, Sitaram Chamariya Degree College, Katihar, P.S. Katihar, District- Katihar
10. Sucharoo Bala Devi Wife Of Amulya Chandra Bhaduri, Resident Of Katihar, P.S.- Katihar, District- Katihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bidhanesh Misra, Advocate
For the State : Mr. Ajay Kumar Sharma, ACC to AG
For the Pvt. Respondents : Ms Sushmita Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 15-02-2018

Writ application of the present appellant was heard by a learned Single Judge and dismissed vide order dated 18.09.2012. Prayer made in the writ application was that the two orders dated 22.02.2007 passed by the Sub- Divisional Officer, acting as the



appellate forum under B.T. Act, as well as the order dated 28.07.2006 passed by the Circle Officer rejecting the claim of the appellant under Section 48D of the Bihar Tenancy Act be rejected. Since such a claim of the appellant has been further negated by the learned Single Judge by refusing to interfere with the two orders impugned in the writ application vide order dated 18.09.2012, the intra court appeal has been preferred.

From a narration of facts, two things are evident. One, that the present appellant was never declared as a Bataidar and if there was an order under Section 48E, which was an ex parte order obtained, it does not bind the respondents in any manner. In addition to that, the records indicate that the so-called possession was Gaswan Kabjadhari (forceful possession).

The land in question was donated to His Excellency, the Governor of Bihar, for setting up of a college. The same has been recorded in the revenue records as such for public purpose for setting up of a degree college and any claim or manipulation done by the appellant showing herself to be an under-raiyat is a fraud having been played with connivance or in suppression as well as by non- impleadment of the contesting parties, which will not bind any party. In the above factual background, the learned Single Judge was absolutely correct in refusing to interfere with the



detailed order, which has been passed first by the Circle Officer and then the appellate authority i.e. Sub- Divisional Officer.

This Court will not allow such kind of illegality of grabbing lands even of public authorities by misusing the provisions of the Bataidari Act.

Appeal has no merit. It is dismissed.

The District Magistrate of Katihar is now directed to ensure that the land in question is free of any kind of encroachment made by any person, including the present appellant. If force is required, it should be used and the land of the college should be made free within a period of four weeks from the date of communication/ production of a copy of this order.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

sk

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2018
Transmission Date	NA

