

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2207 of 2016
IN
Civil Writ Jurisdiction Case No. 7831 of 2005**

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Sant Lal Kishku son of late Sufal Kishku resident of Village Bahanda Simana, P.S.
Barari, District - Katihar.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Deputy Collector, Land Revenue, Katihar.
3. Ripuvendra Singh son of late Sardar Jitendra Prasad Singh
4. Ripuvendra Singh son of late Anup Lal Singh
5. Balwant Singh son of Jagarnath Singh
6. Nirmal Singh son of Jagarnath Singh Sl. No. 3 to 6 are residents of vill.
Bhandartal, P.S. Barari, District Katihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukesh Kumar Jha

For the Respondent/s : Mr. MD.KHURSHID ALAM-AAG12

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 21-03-2018

Heard learned counsel for the appellant and learned
counsel for the State.

Perused the impugned order dated 15.11.2016. We are
not inclined to interfere with the order of the learned Single Judge



who refused to interfere with the decision dated 01.04.2003 passed in Batai Case No. 80 of 2002-03 by the DCLR Katihar rejecting the claim of Bataidari by the appellant under Section 48 E of the Bihar Tenancy Act, 1985.

Submission of the learned counsel for the appellant is that the DCLR should have referred the dispute for constitution of a Board. Since that was not done, the decision of the DCLR was vulnerable and in teeth of Full Bench decision rendered in the case of **Dhanji Singh Vs. The State of Bihar and Ors.,1979 P.L.J.R. 247.**

The learned Single Judge after having perused the order of the DCLR and in absence of rebuttal of the fact that a title suit was also earlier filed for similar dispute between the landlord and the Bataidar and declaration was made in favour of the landlord by a decree passed by the civil court on 07.10.1980. That decree having attained finality the Bataidari proceeding cannot be used to overcome a decree already passed in favour of the landlord.

This is nothing but an innovation and an effort to dilute the effect of the decree which has rightly been rejected by the DCLR and affirmed by the learned Single Judge. We do not agree with the submission of the learned counsel for the appellant that a case for interference by the learned Single judge in the given facts



is required keeping in mind that a civil court decree can be wished away and overcome in a Bataidari proceeding especially when the lis was the same.

The appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.03.2018
Transmission Date	NA

