

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8472 of 2019

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Bhagwant Lal Choudhary Son of Late Mahavir Choudhary Resident of Village-Ward No.17, Mohalla-Rahika Tola, Nagar Parishad, P.S. Araria, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Araria.
2. The Bihar Land Tribunal, Patna.
3. The Sub Divisional Officer, Araria, District-Araria.
4. The Circle Officer, Araria, District-Araria.
5. Md. Faquera Alam Son of Late Sk. Abdul Majeed Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
6. Sabnam Khatoon widow wifeof Late Md. Khurshid Alam Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
7. Shahnawaz Alam Son of Late Md. Khurshid Alam Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
8. Mohd. Shahbaz Ansari Son of Late Khurshid Alam Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
9. Md. Mahboob Alam Son of Late Sk. Abdul Majeed Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
10. Md. Noor Alam Son of Late Sk. Abdul Majeed Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar, Nagar Parishad, P.S. Araria, District-Araria.
11. Abdul Quadir Son of Late Md. Siddique Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar Parisad, P.S. and District-Araria.
12. Abdul Kalim Son of Late Md. Siddique Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar Parisad, P.S. and District-Araria.
13. Md. Sonu Son of Late Abdul Raheem Resident of Village-Ward No.17, Mohalla-Rahika Tola Nagar Parisad, P.S. and District-Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Trilokinath Maitin Mr. Md. Ziaul Quamar Mr. Manish Kumar Mr. Subhash Patel
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG-12) Mr. Fakhruddin Ali Ahmad, AC to AAG-12



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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 25-04-2019 Heard learned counsel for the parties.

2. Aggrieved by an order passed by the learned Chairman, Bihar Land Tribunal, Patna, in B.L.T. Case No. 879 of 2015, this writ application has been filed, whereby the case filed on behalf of respondent nos. 5 to 10 has been allowed and an order passed by the Circle Officer, Araria, under Section 48-D of the Bihar Tenancy Act, 1885 (in short 'the Act'), has been set aside. The appeal preferred against the decision of the Circle Officer, Araria, by the said respondents, was dismissed, whereafter they had approached the Bihar Land Tribunal, giving rise to said B.L.T. case No. 879 of 2015, which has been allowed.

3. From the impugned order of the Tribunal, it can be easily noticed that the Tribunal, based on the materials available on record, reached a conclusion that the land, in question, could not be described as agricultural land, capable of cultivation. The learned Chairman of the Bihar Land Tribunal has held, referring to Section 48-C and Section 48-D of the Act, that acquisition of the right to hold land under the said purpose is only for the purpose of cultivation and it contemplates no other purpose.



4. Mr. Maitin, learned Senior Counsel, appearing on behalf of the petitioner, has submitted that the learned Chairman of the Tribunal has misconstrued the materials available on record before reaching the finding that the land, in question, was not capable of cultivation, only on the ground of existence of a residential house over the plot.

5. In response to a query made by this Court, Mr. Maikin, has submitted that the father of the petitioner was a *bataidar* of the land holder and after his death, the petitioner, after having inherited the *bataidari* right from his father, continued with the said status and, thus, he acquired his status as occupancy *raiyyat* under the provisions of Section 48-D of the Act, which is not convincing, in my opinion.

6. On perusal of the order impugned passed by the learned Chairman, Bihar Land Tribunal, Patna, I do not find any legal infirmity for the reason that even the appellate authority had taken into account the fact that in the survey *khatian* as well as in the report of the Circle Officer, Araria, based on legal inspection, house and *sahan* of the opposite parties were found over the land, in question.

7. In my view, referring to the provisions under Section 48-C and 48-D of the Act, the Tribunal has rightly held



that the petitioner miserably failed to make out his claim under
Section 48-D of the Act.

I, therefore, do not find any merit in this application,
which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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