

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15349 of 2019

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1. Amzad Ali S/o Late Johak Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar
 2. Jullu Rahman @ Tullu Rahman S/o Late Johak Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar

... .. Petitioners

Versus

1. The State of Bihar
2. The Collector Katihar
3. The Sub divisional Officer Katihar
4. The Circle Officer Barari, Katihar
5. Abdul Salam S/o Late Johak Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar
6. Md. Mubarak S/o Late Ramjan Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar
7. Md. Muref S/o Late Ramjan Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar
8. Suleman S/o Late Ramjan Ali Vill.- Jhunjhuna, P.s.- Barari, Distt.- Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha
For the Respondent/s : Mrs. Madhuri Kumari, AC to GP-15

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 30-07-2019 The petitioners and the private respondents are claiming to be the heirs of one Late Johak Ali. Both of them claim status of Johaj Ali as under raiyat and thereafter, occupancy raiyat under Section 48D of the Bihar Tenancy Act, 1885, and raised a dispute over their respective, shares after death of Johak Ali as an under raiyat/occupancy raiyat.

On the basis of their respective claims, a proceeding under Section 48D of the Act was initiated, which was decided



by the Circle Officer treating the parties to be under raiyat. An appeal was preferred before the Sub Divisional Officer, who set aside, the order of the Circle Officer mainly on the ground that it was passed without following the legal procedures, by an order dated 08.04.2013 in Appeal Case No. 16 of 2012, which order was challenged before the Bihar Land Tribunal by making an application, giving rise to B.L.T. Case No. 721 of 2016. The application has been dismissed by learned Member(Judicial) by order dated 29.10.2018 endorsing the view taken by the Sub Divisional Officer holding that in the absence of the landlord, the dispute under Section 48D of the Act could not have been decided. The said order of the Bihar Land Tribunal is under challenge in the present writ application.

I am aghast to notice the circumstance in which a proceeding under Section 48D of the Act was ventured to be initiated even in the absence of the land owner. The entire exercise from the very beginning was completely illegal. The order of the Tribunal, refusing to interfere with the order of the Sub Divisional Officer, does not require any interference. The Sub Divisional Officer has specifically recorded that the provisions under the Bihar Tenancy Act was not at all followed before the Circle Officer passed the orders in purported exercise



of power under Section 48D of the Act.

Learned counsel appearing on behalf of the petitioners has attempted to persuade this Court that the petitioners are under raiyats of the land owner and father of the petitioners had remained under raiyat for several years. I cannot go into the correctness of the stand, which is being taken on behalf of the petitioners, which can be taken only in appropriate proceedings in accordance with law.

This application is dismissed.

(Chakradhari Sharan Singh, J)

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