

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18242 of 2019

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Md. Minatullah Son of Late Md. Abdullah, Resident of Village- Ganeshpur,
Police Station- Marauna, Dist.- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Supaul.
3. The Anchal Adhikari, Marauna, Police Station Marauna, District- Supaul.
4. Md. Shamil Son of Late Md. Khalil at present resident of Village- Pipraulia,
P.O.- Kharua, P.S.- Jhanjarpur, District- Madhubani, Pin Code 847238,
Permanent Address.- Village- Ganeshpur, P.S.- Marauna, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Asif Kalim
For the Respondent/s : Mr.Sajid Salim Khan (SC25)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 09-09-2019 Heard both sides.

The petitioner has filed this writ petition for quashing the order dated 16.05.2019 passed by the learned Chairman, Bihar Land Tribunal, Patna in B.L.T. Case No. 7 of 2017 as well as order dated 21.12.2010 passed in Basgit Revision Case No. 202 of 2008 by which Parcha issued in favour of the petitioner in Basgit Parcha Case No. 06/2002-2003 has been set aside.

The learned counsel for the petitioner submits that petitioner filed application for issuance of Basgit Parcha regarding land of Khata No. 661, Khesra No. 9344, area one Katha, situated in village Marauna and on such Basgit Parcha Case No. 06/2002-2003 was registered and enquiry was held. The petitioner was found in possession of the land and his house was also standing there. Accordingly, Parcha under Bihar Privileged Persons Homestead Tenancy Act (hereinafter referred



to as the Act) was issued in favour of the petitioner. The landlord filed revision under Section 21 of the Act but the revision petition was dismissed. Thereafter, the landlord filed case before the Bihar Land Tribunal and assailed the order on the ground that petitioner is not a privileged person under Section 2(j) of the Act. The learned Chairman, B.L.T. held that petitioner is not a privileged person under the Act and no enquiry, as envisaged under the Act, after issuance of notice on the landlord, was held. It is further held that petitioner claimed himself to be in possession of the land by virtue of payment of consideration amount of Rs. 32,000/- and, accordingly, set aside the order of the Collector, Supaul passed in Basgit Revision Case No. 202 of 2018.

The learned counsel for the petitioner submits that the order of B.L.T. is illegal. The enquiry, as envisaged under the Act, was held. The petitioner was in possession of the land and the house of the petitioner was also standing there with the consent of landlord and for all practical purposes the petitioner deemed to be a privileged person.

The question arises for consideration as to whether the petitioner is a privileged person under the Act?

Section 2(j) of the Act says that privileged tenant means a privileged person who holds homestead under another person and is or but for a special contract would be, liable to pay rent for such homestead to such person.

From a bare perusal of the application filed by the petitioner before the Circle Officer (Annexure-1) it appears that petitioner did not disclose in the application that on account of any contract he constructed house on the land and he is living as a tenant of the landlord. The Circle Officer, who issued Parcha



in favour of the petitioner, has also nowhere held that petitioner comes within the purview of privileged person on the basis of definition as contained in Section 2(j) of the Act. Later on it has come that petitioner also paid Rs. 32,000/- as consideration money to the landlord and entered into the land by virtue of an oral agreement to purchase the land and this fact itself shows that petitioner did not enter into the land as privileged person with the consent of landlord in rendering any service or paying any rent. Therefore, I find that the learned Chairman, B.L.T. has rightly held that petitioner is not a privileged person and the Parcha issued in favour of the petitioner is illegal.

Thus, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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