

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.248 of 2020

In

Civil Writ Jurisdiction Case No.16696 of 2004

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Dinesh Chandra Paswan, Son of Ram Chandra Paswan, resident of Village
Pranpur, P.S. Pranpur, District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Katihar.
3. The D.C.L.R. Katihar.
4. The Circle Officer, Pranpur, Katihar.
5. Anup Narayan Singh, Son of Late Harendra Narayan Singh resident of
Village Maina Nagar, Police Station Pranpur, District- Katihar.
6. Peter Paul Das @ Pritam Paul Das @ Hare Peter Paul Das Son of Late
Dharam Paul Das resident of P-29, Mission Road, Extension Court 6th
Floor, Calcutta- 13.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajit Kumar Singh, Advocate
For the Respondent/s : Mr. Md.Khurshid Alam (A.A.G.-12)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-09-2021

Heard learned counsel for the parties.

Being aggrieved by judgement and order dated
18.01.2019 passed in C.W.J.C. No. 16696 of 2004 passed by
learned Single Judge of this Hon'ble Court by which the writ
court has remanded the matter to the D.C.L.R., Katihar to pass a
fresh order, appellant-respondent no. 5 has preferred this L.P.A.

Anup Narayan Singh (Writ petitioner) had filed case no. 128M of 1980 under Section 145 of Cr.P.C. for declaration of his possession over the disputed land and to restrain the landlord from interfering with his peaceful possession.

Anup Narayan Singh (Writ petitioner) had taken a plea that landlord had taken Rs. 30,000/- from his father for opening a factory but the landlord never returned the money and gave possession of the disputed land to his father and thereafter his father paid the rent of the land.

The Executive Magistrate vide order dated 30.05.1987 found the land in possession of Anup Narayan Singh (Writ petitioner) and accordingly directed the landlord not to interfere with his peaceful possession.

After ten years of said order, appellant Dinesh Chandra Paswan filed a petition before the D.C.L.R. to declare him as Bataidar of the disputed land. The D.C.L.R. constituted a Board under the chairmanship of Circle Officer, who reported that appellant is Bataidar of the land.

Anup Narayan Singh (Writ petitioner) filed a petition before the D.C.L.R. to implead him as a party respondent and filed the order of Executive Magistrate in which he was found to be in peaceful possession over the land but he was not given

notice, however, the D.C.L.R. rejected his petition to add him as a party and declared appellant Dinesh Chandra Paswan as under Raiyat of the land.

Anup Narayan Singh (Writ petitioner) preferred appeal before the Collector but same was dismissed by order dated 01.09.2004 on the ground that he could not produce any document of title over the land.

After hearing both the parties, the learned writ court set aside both the orders passed by D.C.L.R., Katihar as well as Collector, Katihar in Bataidari case and remanded the matter to the D.C.L.R. to pass a fresh order after hearing both the parties i.e. Anup Narayan Singh (writ petitioner) and Dinesh Chandra Paswan (appellant) as Anup Narayan Singh (writ petitioner) was a necessary party in Bataidari case with respect to the disputed land for which an order of his peaceful possession has been passed by a competent court, as such, rejection of his petition in the bataidari case instituted by Dinesh Chandra Paswan (appellant) was not proper and any order in Bataidari case ought to have been passed after making Anup Narayan Singh (writ petitioner) as a party in said case and remanded the matter to the court of D.C.L.R., Katihar for deciding the bataidari case afresh after hearing both the parties.

This Court does not find any infirmity or error in the order passed by the learned Single Judge requiring any interference by this Court, accordingly, the L.P.A. is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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