

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5136 of 2022

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1. Harihar Sah, son of Mahavir Saah, resident of Village-Sattar, Police Station-Bihra, District-Saharsa.
 2. Ganesh Sah, son of Mahavir Sah, resident of Village-Sattar, Police Station-Bihra, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Secretary, Land and Revenue Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa.
3. The Collector, Saharsa.
4. The Deputy Development Commissioner, Saharsa.
5. The D.C.L.R., Saharsa.
6. The S.D.O. Sadar, Saharsa.
7. The Circle Officer, Sattar Kataiya, Saharsa.
8. The Block Development Officer, Sattar Kataiya, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Rajpati
For the Respondent/s : Mr.Md. Khurshid Alam (Aag 12)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 22-08-2022 Heard the parties.

The land of the petitioners is being taken over under the perpetual lease policy.

Learned counsel for the petitioners submits that the petitioners are ready to enter into lease agreement with the State if the State treats their land as residential, but the State is treating their land to be agricultural.

Any lease between the two parties can be entered only



with the consent of the parties. One party being the State cannot force the petitioners to enter into a lease. If the petitioners are not ready to part their land under the perpetual lease policy then the State has no option, but to acquire the land under the 2014 Act. The stand of the State is that the other brothers have entered into a lease and taken the amount treating the land to be agricultural land, the action of their brothers cannot force the petitioners to enter into the lease with the State.

In these circumstances, it is directed that if the petitioners are not ready to part their land under the perpetual land policy, the State cannot force them to do so. It is for the State to take a decision whether the State wants to acquire the land or not under the acquisition policy.

It goes without saying that the State cannot take forcible possession of the land without acquiring it.

The present application is, accordingly, disposed of.

(Sandeep Kumar, J)

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