

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.484 of 2018

In
Civil Writ Jurisdiction Case No.7278 of 2016

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1. Anmol Yadav Son of Late Hari Lal Yadav Resident of Village- Kanhaili, P.S. Narpatghanj, District Araria.
 2. Raj Kumar Yadav Son of Late Hari Lal Yadav Resident of Village- Kanhaili, P.S. Narpatghanj, District Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue, Land Reforms, Government of Bihar, Patna.
2. The Sub-Divisional Officer, Forbesganj, Araria.
3. The Circle Officer, Narpatganj, Forbesganj, Araria.
4. Rajo Yadav @ Rajendra Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
5. Satto Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
6. Ramanand Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
7. Tarkeshwar Yadav Son fo Late Uday Chand Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
8. Jay Kumar Yadav Son of Late Yday Chand Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
9. Anand Yadav Son of Late Uday Chand Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.
10. Shiva Nand Yadav Son of Late Uday Chand Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District-Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sriram Krishna, Advocate
For the Opposite Party/s : Mr.Md. Khurshid Alam, AAG- 12

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

8 23-03-2022 The petitioners are seeking review of an order of this Court dated 06.12.2016, passed in CWJC No. 7278 of 2016, whereby the writ application seeking quashing of an order dated



01.03.2016, passed in BLT Case No. 733 of 2014 by the Bihar Land Tribunal, Patna was dismissed. It is evident from this Court's order dated 06.12.2016 under review that the petitioners had intended to establish their claim of *Sikmi* right under Section 48D of the Bihar Tenancy Act. This Court, noticing the concurrent findings of fact recorded by the Bihar Land Tribunal and the revenue authorities, had held as under :-

“From the facts noticed above, it is apparent that by recording concurrent findings of fact, all the three authorities have rejected the claims of the petitioners under Section 48D of the B.T.Act with respect to the lands in question.

Though the learned counsel appearing on behalf of the petitioners has argued the matter at some length, but he has not been able to point out any legal infirmity or procedural error in the orders impugned.

In above view of the matter, this Court does not feel persuaded to interfere with the orders impugned passed by the authorities concerned, which have been affirmed by the learned Tribunal. The writ petition is devoid of merit and is, accordingly, dismissed. However, there shall be no order as to costs.

2. A Letters Patent Appeal was filed by the petitioners thereafter giving rise to LPA No. 234 of 2017 assailing the said order of this Court dated 06.12.2016, passed in CWJC No. 7278 of 2016. On 26.09.2018, when the Letters Patent Appeal was



taken up for hearing, the learned counsel for the appellant sought permission to withdraw the appeal as the appellants proposed to file review application seeking review of the order passed by the learned Single Judge with additional documents which, according to the appellants, were available before the revenue authorities but were not placed before this Court. The Letters Patent Appeal was permitted to be withdrawn with liberty to the petitioners to prefer review application. Accordingly, the present review application has been filed.

3. Mr. Sriram Krishna, learned counsel appearing on behalf of the petitioner has submitted that the documents which have now been brought on record by way of Annexures P-2 to P-6 to the review application could not be placed before the learned Single Judge in the writ proceeding despite due diligence exercised by the petitioners. Now, since the documents have been brought on record in the present writ application, this Court may consider reviewing the order earlier passed by this Court in CWJC No. 7278 of 2018. He has argued that the documents as brought on record by way of Annexures P-2 to P-6 demonstrate that the petitioners held *Sikmi* rights in respect of the land in question.

4. It would be apt to notice, at this juncture, the



finding recorded by the Bihar Land Tribunal which was under challenge before this Court in the writ proceeding, relevant portion of which reads as under :-

“The petitioners are not in possession of the land in question rather the same are in possession of the opposite parties. The statement of the petitioners that they are in possession of the land much more than 12 years continuously and acquired Sikmi right is incorrect and false and is denied. The protected raiyat having less than 5 acres of land and Sikmi right is not transferable. The Circle Officer also recorded in his finding that the land in Parti and over same part of the land ‘Goitha’ and ‘Santhi’ of opposite party Rajo Yadav was found kept. The possession of the petitioners was not found. It would also be evident from the order of the Circle Officer that the petitioners neither claimed nor attempted to prove that transfer of Sikmi right has been made in their favour as it is the usage and custom in that area. The Sub-Divisional Officer, Forbesganj in appeal has upheld the finding of the Circle Officer. The Sub-Divisional Officer in Appeal also came to the conclusion that the custom and usage of transfer of Sikmi right in the area has not been established by the petitioners and the opposite parties are protected tenant and they have less than 5 acres of land in their respective shares according to the explanation to the proviso of



section 48C of the Bihar Tenancy Act.”

5. There is specific finding recorded by the Tribunal that the possession of the petitioners was not found. Further, the petitioners’ claim that transfer of *Sikmi* right stood created in their favour as per the usage and custom prevalent in that area could not be established. The Tribunal did not find any reason to interfere with the findings recorded by the Sub-Divisional Officer in appeal as also the Circle Officer to the effect that custom and usage of transfer of *Sikmi* right in the area was ever invoked. The Tribunal found the case of the petitioners to be frivolous.

6. In my opinion, the documents which have been brought on record by way of Annexures P-2 to P-6 do not make out a case to take a different view than what has been taken by the Tribunal and this Court in the order under review dated 06.12.2016, passed in CWJC No. 7278 of 2016.

7. For the foregoing reasons, I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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