

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17910 of 2021

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1. Aslam Badar Khan, son of Dr. Badrul Hoda Khan @ Dr. B.H. Khan.
 2. Afshan Badar, wife of Sartaj Badar and Daughter of Dr. Badrul Hoda Khan @ Dr. B.H. Khan.
 3. Azam Badar Khan, son of Dr. Badrul Hoda Khan @ Dr. B.H. Khan.
 4. Ashraf Badar Khan, son of Dr. Badrul Hoda Khan @ Dr. B.H. Khan.
 5. Asma Badar Khan Daughter of Dr. badrul Hoda Khan @ Dr. Dr. B.H. Khan.

All are resident of Village - Qabilpur (Mohammadbad), P.O. and P.S.- Sarai, District-Vaishali, at Present Resident of Dr. Badar Mansion, Sharif Colony, Mohalla-Musallahpur, P.S.-Pirbahore, District-Patna.

(Petitioner nos. 2 to 5 are being represented by Petitioner no.1 the Power of Attorney Holder)

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector, Vaishali at Hajipur, District-Vaishali.
4. The Additional Collector, vaishali at Hajipur, District-Vaishali.
5. The Deputy Collector, Land Reforms Hajipur, District-Vaishali.
6. The Circle Officer, Bhagwanpur, District-Vaishali.
7. Dr. Badrul Hoda Khan @ Dr. B.H. Khan, Son of Late Dr. Md. Nazim Khan, Permanent Resident of Village - Qabilpur (Mohammadbad), P.O. and P.S.- Sarai, District-Vaishali, at Present Resident of Dr. Badar Mansion, Sharif Colony, Mohalla-Musallahpur, P.S.-Pirbahore, District-Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Wasi Ahmad Khan, Advocate
For the Respondents	:	Mr. Raj Rishi Raj Sinha, S.C.-19

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 03-08-2022

Heard the parties.

2. In this case, the petitioners have challenged the
order dated 13.02.2020 passed by the Bihar Land Tribunal,



Patna, in B.L.T. Case No. 77 of 2018, which has been decided *ex parte* on the ground that the petitioners have not been able to deposit the cost of Rs.1,000/- which was directed to be deposited in the Chief Minister Relief Fund, Government of Bihar, Patna.

3. Learned counsel for the petitioners submits that the petitioners, who were the respondents in B.L.T. Case No. 77 of 2018, were directed by the Tribunal to file their counter affidavit but due to mistake the same could not be filed and therefore, a cost of Rs.1,000/- was imposed upon the petitioners, which was to be deposited in the Chief Minister's Relief Fund but in spite of best effort to deposit the cost amount, none of the Banks agreed to get the money deposited in the Chief Minister's Relief Fund and this fact was put before the Tribunal but the Tribunal did not consider the same and decided the case *ex parte*.

4. In this case, notice was earlier issued to respondent no.7. Though it was validly served but nobody appears on his behalf.

5. Admittedly, the impugned order is an *ex parte* order and the same cannot be sustained for the simple reason that it has been passed in complete violation of principles of



natural justice as before passing the order the petitioners were not heard by the Tribunal on ground that they have not been able to deposit the cost of Rs.1,000/- awarded by the Tribunal.

6. Considering the aforesaid facts and also in the interest of justice, the impugned order dated 13.02.2020 passed by the Bihar Land Tribunal, Patna, in B.L.T. Case No. 77 of 2018 is set aside. The matter is remanded back to the Bihar Land Tribunal, Patna, for deciding the matter afresh after hearing both the parties.

7. The petitioners are directed to pay an amount of Rs.5,000/- to the respondent no.7 by way of a demand draft prepared in the name of respondent no.7.

8. The petitioners shall appear before the Bihar Land Tribunal, Patna, with a copy of this order on 28.09.2022. Thereafter, the matter will be proceeded before the Tribunal.

9. With the aforesaid observations and directions, this writ petition stands allowed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	16.09.2022
Transmission Date	N/A

