

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.224 of 2020

1. Jhulan Yadav, S/o Late Soti Yadav, Resident of Village - Benipatti, Tola-Bathunaha, P.S. Pipra @ Pipra, District - Supaul at present Resident of Devipatti, Ward no. -11, P.S.-Pipra, District - Supaul.
2. Fulach Yadav @ Fuchand Yadav, S/o Late Soti Yadav, Resident of Village-Benipatti, Tola-Bathunaha, P.S. Pipra @ Pipra, District-Supaul at present Resident of Devipatti, Ward no. -11, P.S.-Pipra, District-Supaul.
3. Kaleshwar Yadav, S/o Late Soti Yadav, Resident of Village-Benipatti, Tola-Bathunaha, P.S. Pipra @ Pipra, District-Supaul at present Resident of Devipatti, Ward no. -11, P.S.-Pipra, District-Supaul.
4. Bhusan Yadav, S/o Late Soti Yadav, Resident of Village-Benipatti, Tola-Bathunaha, P.S. Pipra @ Pipra, District-Supaul at present Resident of Devipatti, Ward no. -11, P.S.-Pipra, District-Supaul.
5. Chhotelal Yadav, S/o Late Soti Yadav, Resident of Village - Benipatti, Tola-Bathunaha, P.S. Pipra @ Pipra, District-Supaul at present Resident of Devipatti, Ward no. -11, P.S.-Pipra, District-Supaul.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Additional Member, Board of Revenue, Bihar, Patna.
4. The Commissioner, Karhi (sic.) Koshi Divisiona, Saharsa.
5. The Collector, Supaul, District - Supaul.
6. The Collector, Saharsa, District - Saharsa.
7. The Deputy Collector, Land Reforms, Supaul, District - Supaul.
8. The Circle Officer, Pipra, District - Supaul.
9. Lalo Ram.
10. Ratan Ram
Respondent no. 9 and 10 are son of late Mhavir Ram, Resident of Village-Benipatti, Tola - Bathnaha, P.S.- Pipra, District - Supaul.
11. Jang Bahadur, aged not known to the petitioners, Gender-Male.
12. Deo Raj Paswan, aged not known to the petitioners, Gender-Male.
13. Lutan Ram, aged not known to the petitioners, Gender-Male.

Respondent nos. 11 to 13 are sons of Late Domi Paswan, Resident of Village - Benipatti, Tola - Bathnaha, District - Supaul.

... .. Respondents



Appearance :

For the Petitioners : Mr. Sushil Kumar Jha, Advocate
For the Respondents : Mr. Sajid Salim Khan (SC-25)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 25-07-2022

Heard learned counsel for the parties.

2. In this case, the petitioners are challenging the order dated 05.12.2017 passed by the Bihar Land Tribunal, Patna, in B.L.T. Case No. 648 of 2017, by which the Tribunal has dismissed the B.L.T. Case filed by the petitioners against the order dated 06.03.2017 passed by the Board of Revenue, Bihar, Patna, in Revision (Lands Ceiling Surplus) Case No. 11 of 2015, by which the said Revision Application filed by the petitioners has been dismissed.

3. Earlier, the petitioners have filed C.W.J.C. No.6275 of 1990 and vide order dated 19.05.1999 the said writ petition was disposed of by this Court. Paragraph no.12 of the said order reads as under:-

“12. In the result, the impugned order of the Additional Member, Board of Revenue, as contained in Annexure-I, is set aside and the case is remanded back before the same authority for a fresh consideration in accordance with law. In the meantime, until final disposal, interim order of this Court, dated 15.2.1991 shall continue. However, in the facts and



circumstances of this case, there shall be no order as to costs.”

4. Pursuant to the aforesaid order of remand, the matter was to be decided by the Board of Revenue in accordance with the directions and observations of this Court passed in the aforesaid case.

5. It has been submitted by learned counsel for the petitioners that the petitioners had approached the Member, Board of Revenue after inordinate delay since the petitioners were not informed about the order passed in C.W.J.C. No. 6275 of 1990 as learned counsel for the petitioners namely, Chandeshwar Jha, had passed away and because of this, there was communication gap between the petitioners and their counsel.

6. Learned counsel for the State has appeared and filed a counter affidavit in the matter. He has vehemently opposed the writ petition and has submitted that since the orders passed by the B.L.T. and the Board of Revenue do not suffer from any illegality, this Court may not interfere with the same.

7. Considered the submissions of the parties.

8. In the earlier round of litigation i.e. C.W.J.C. No.6275 of 1990, the State was a party and it was the duty of the State also to inform the Member, Board of Revenue about the



remand order. It was not only the duty of the petitioners to inform this fact to the Member, Board of Revenue. The main ground for rejecting the case of the petitioners, after remand, is that the petitioners have approached the Member, Board of Revenue, after inordinate delay and the same has been affirmed by the Bihar Land Tribunal, Patna.

9. In the opinion of this Court, after remand, the matter should have been decided by the Member, Board of Revenue afresh and rejection of the claim of the petitioners on the ground of delay in approaching the Board of Revenue as well as the Bihar Land Tribunal should not have come in the way of afresh decision. The delay in approaching the Board of Revenue by the petitioners is of no consequence as the State should have also approached the Board of Revenue after the order was passed by the High Court.

10. For the foregoing reasons and also in the interest of justice, the writ petition deserves to be allowed.

11. Accordingly, the order dated 05.12.2017 passed by the Bihar Land Tribunal in B.L.T. Case No. 648 of 2017 as also the order dated 06.03.2017 passed by the Board of Revenue, in Board Revision Case No. 11 of 2015 are set aside. The matter is remanded back to the Bihar Land Tribunal, Patna,



for taking decision afresh on merit and after heaving the parties.

12. Both the parties shall appear before the Bihar Land Tribunal, Patna, on 16.08.2022 and thereafter, the Bihar Land Tribunal will proceed in the matter in accordance with law and decide the same expeditiously.

13. Till the disposal of the case before the Bihar Land Tribunal, the interim order as mentioned in the order dated 19.05.1990 passed in C.W.J.C. No.6275 of 1990 shall continue.

14. 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	04.08.2022
Transmission Date	N/A.

