

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1313 of 2018

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Yogendra Sah @ Yogendra Prasad Sah son of Late Bhagwan Dutt Sah
resident of village - Saroja Bola, Tola - Belha, Anchal P.S. - Marauna, District
- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collection-cum-District Magistrate, Supaul.
3. The Sub-Divisional Officer S.D.O., Nirmali, District - Supaul.
4. The Circle Officer, Marauna, District - Supaul.
5. Subhash Chandra Yadav son of Surya Narayan Yadav resident of village -
Saroja Bela, Tola - Belha, Anchal P.S. - Marauna, District - Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv.
For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

7 31-07-2023 Heard learned counsel for the petitioner, learned

counsel for the private respondent and learned counsel for the

State.

2. The present writ application has been filed for
setting aside the order dated 23.08.2017 passed in B.L.T. Case
No. 1071 of 2015 passed by the Bihar Land Tribunal in which
the order of the Collector, Supaul dated 12.07.2011 passed in
Basgit Revision Case No. 187 of 2007 was set aside canceling
the alleged illegal *Basgit Parcha* granted to the private
respondent in a very illegal manner. The further prayer has been
made that direction be given to the respondent not to disturb the

peaceful possession of the petitioner upon the land in question *i.e.* Khata No. 185, Khesra No. 2061 and 2062 old measuring 0.10 decimal under *Mauza*- Saroja Bela, *Anchal*- Marauna, District- Supaul.

3. Both the counsels (counsel for the petitioner and counsel for the private respondents) fairly submits that the dispute involved in this writ application is covered under the Bihar Privileged Persons Homestead Tenancy Act, 1947 [Bihar Act IV of 1948], (hereinafter referred to as 'the Act of 1947').

4. Learned counsel for the petitioner submits that the Bihar Land Tribunal has scrutinized the order passed by the Collector, Supaul under Section 21 of the Act of 1947 and upon scrutiny, the Bihar Land Tribunal has set aside the order passed by the Collector, Supaul vide order dated 12.07.2011 passed in *Basgit* Revision Case No. 187 of 2007 by which the Collector, Supaul has cancelled the *Basgit Parcha* issued in favour of the petitioner by the Circle Officer, Marauna, District- Supaul dated 15.01.2007.

5. Both the counsels jointly prayed that the correct position of law has been laid down under Section 21 of the Act of 1947. Counsels relied on a judgment of this Hon'ble Court decided in case of *Jagdish Rai Vs. State of Bihar 2003(3)*

PLJR 829 which states as follows:

“Bihar Privileged Persons Homestead Tenancy Act, 1947- Section 21- power of Collector to call for and examine record- petitioner’s case allowed by Anchal Adhikari but in revision before Collector by the respondent, order of Anchal Adhikari set aside and revision allowed- petitioner contending the act of the Collector allowing the revision application of respondent as bad because, Section 21 of the Act empowers the Collector to reopen the proceeding and remit the matter back to the Anchal Adhikari for disposal afresh after setting aside the order of Anchal Adhikari rather than allowing the revision application- matter remitted back to Anchal Adhikari to dispose of in terms of Section 21 of the Act to dispose of the petitioner’s application afresh.”

6. Upon going through the pleadings and hearing the arguments, this Court has gone through the provisions of law laid down under Section 21 of the Act of 1947, as well as the case referred. It is crystal clear that under Section 21 of the Act of 1947, the power of the Collector is limited and under which the Collector of the District after considering a matter under

Section 21 of the Act of 1947 is directed that the case or the proceeding be reopened and disposed of afresh in accordance with the provisions of this Act.

7. Meaning thereby, the matter shall be remanded back to the Collector under the Act. As such, the order passed by the Bihar Land Tribunal is hereby partially corrected that the order dated 12.07.2011 passed by the Collector, Supaul in *Basgit* Revision Case No. 187 of 2007 shall not be set aside but only the order of cancellation of *Basgit Parcha* has been set aside and the entire matter is hereby directed to be referred before the Collector, Supaul to re-open the entire matter. Thereafter, the Circle Officer, Marauna, District- Supaul is directed to hear this case, calling both the parties afresh and then pass order in accordance with law laid down under Section 21 of the Act of 1947 afresh.

8. With this direction, the present writ application stands disposed of.

(Dr. Anshuman, J.)

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