

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7182 of 2014

1. Sushil Roy and Ors son of Late Mahesh Roy
2. Anita Roy wife of Late Hiten Roy
3. Raju Roy
4. Prem Roy
5. Ashu Roy Petitioner no. 3 to 5 are sons of Late Hiten Roy All resident of Village - Chhoghra, P.S.- Abadpur, District - Katihar.
6. Shantna Roy daughter of Late Hiten Roy wife of Gena Das resident of Village - Bhagwanpur, P.S. - Harish Chandrapur, District - Maldah, West Bengal

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Sub Divisional Officer, Barsoi, District - Katihar.
3. The Circle Officer, Barsoi, District - Katihar
4. The Chairman, Bihar Land Tribunal, Patna
5. Abhay Chandra Roy son of Late Harendra Nath Rai
6. Mansoor son of Late Samiruddin
7. Abdul Jalil son of Late Galsuddin
8. Md. Matiur Rahman son of Late Maniruddin
9. Muslimuddin son of Late Gholam Rabbani
10. Md. Mohsin son of Late Gholam Rabbani
11. Dabiruddin son of Late Nasiruddin
12. Abdul Samad son of Late Nasiruddin
13. Abdul Mannan son of Late Nasiruddin
14. Sanaullah son of Late Nasiruddin All resident of Village - Chhoghra, P.S.- Abadpur, District - Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar, Adv.
For the Respondent/s	:	Mr. Manisha Singh, AC to GP7

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 19-06-2023

Heard learned counsel for the petitioners and

learned counsel for the State.

The petitioners have filed writ petition for quashing the order dated 08.01.2014 passed in B.L.T. Case No.71 of 2013 and further for setting aside the order dated 15.12.2012 passed by the learned Sub Divisional Officer, Barsoi in Revenue Appeal No.08 of 2012-13 by the order passed by Circle Officer, Barsoi in record no. 02/ 2011-12 with further prayer affirming the order dated 26.12.2011 passed by learned Circle Officer, Barsoi in Revenue Case No. 02/2011-12 by which Circle Officer has declared the Occupancy Raiyati right of the petitioners under the land in question.

Counsel for petitioners submits that petitioners were declared occupancy raiyati vide order dated 26.12.2011 passed by Circle Officer, Barsoi in Revenue Case No. 02/2012-13 under the provision of Section 48(D) of the B.T. Act. Counsel submits that the said order was challenged not by the original raiyat of the land rather by the purchaser of the said land who sold his land seven month after decision under Section 48(D) of the Bihar Tribunal Act.

Counsel further submits that on this ground alone, the order passed by the B.L.T. as well as by the S.D.O. be set aside and restoration order of order dated 26.12.2011 passed by Circle Officer, Barsoi in Revenue Case No.02/2012-2013 may

be ascertained.

From the order passed by the Bihar Land Tribunal, Patna, it is clear that the Tribunal has decided this case purely on technical basis that at the time of deciding the occupancy right in favour of Sikmidar. The mandate of law has not been followed by the Circle Officer, Barsoi to conduct an enquiry with regard to actual cultivating possession of Sikmidar over the land with respect to which he has filed an application for declaration of his occupancy right. The B.L.T., Patna has also held that in absence of any spot verification and without a finding that an applicant is in physical cultivating possession of the land, no order could have been passed by Circle Officer declaring occupancy right of the so-called Sikmidar.

The second point that is proper service of notice was not made due to which there is lack of opportunity of hearing and in the absence of landlord occupancy right in favour of the petitioner claiming to be Sikmidar, is not correct and therefore, B.L.T., Patna has dismissed the case.

During the course of arguments, it has also come to the knowledge of this Court that the petitioners are not the original sikmidar rather the name of grand fathers were recorded in the records of right of under Raiyat.

In this view of the matter, this Court is of the view that seeking compliance of Section 48(D) of the B.T. Act is necessary and hence this Court is not inclined to interfere in the order dated 08.01.2014 passed by Bihar Land Tribunal, Patna in B.L.T. Case No.71 of 2013 and therefore, this civil writ application is hereby dismissed.

The petitioners are at liberty to take its recourse under law as mentioned in the B.T. Act.

(Dr. Anshuman, J.)

prakashmani/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	