

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5464 of 2020

Chittan Mahaldar Son of Bhojal Mahaldar R/o Goasi K. Nagar, Goasi,
Krityanand Nagar, Purnia, Bihar 854303.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Revenue and Land Reform Department.
2. Deputy Collector of Land Reforms Purnea.
3. Shyam Roy S/o Satyanarayana Roy R/o Chanapur, Thana- K. Nagar, District- Purnia.
4. Govind Roy S/o Satyanarayana Roy R/o Chanapur, Thana- K. Nagar, District- Purnia.
5. Madhav Roy S/o Satyanarayana Roy R/o Chanapur, Thana- K. Nagar, District- Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhaneshwar Prasad Gupta
For the Respondent/s : Mr.Md.Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 06-11-2023 Heard the parties.

2. This writ application has been filed for setting aside of the order dated 17.10.2019 passed by the Deputy Commissioner of Land Reforms, Sadar, Purnea in Bataidar Case No. 76 of 2018-19 and also for issuance writ of mandamus to the second respondent to constitute a Board under Section 48E (3) of the Bihar Tenant Act, 1885.

3. At the very outset, learned counsel for the State raises a preliminary objection to the effect that petitioner has got statutory remedy by way of appeal under Section 48(F) of Bihar



Tenancy Act & Rules before the Collector, Purnea against the impugned order dated 17.10.2019 passed by the Deputy Commissioner of Land Reforms, Sadar, Purnea in Bataidar Case No. 76 of 2018-19.

Section 48(F) of Bihar Tenancy Act & Rules read as follows:-

48F. Appeals. (1) *An appeal shall lie from an order referred to in [sub-section (7) and] sub-section (8) of Section 48E-*

(i) if such order is passed by an officer other than the Collector of a district, to the Collector of the district or to any officer specially empowered by the State Government by notification to hear such appeals; and

(ii) if such order is passed by the Collector of a district, to the prescribed authority.

(2) The Collector of the district may, at any time, transfer any appeal filed before him to any officer specially empowered under clause (i) of sub-section (1) to hear such appeals or withdraw any appeal pending before any officer so empowered, and either hear such appeal himself or transfer it for disposal to any other officer so empowered.

(3) Appeals under this Section shall be heard and disposed of in accordance with the prescribed procedure.

(4) An order duly made under Section 48-E or on appeal under this Section shall be final and shall not be called in question in any Civil Court.

(5) If a suit is instituted challenging an order made under Section 48-E or on appeal under this Section, the Civil Court shall have no power,



during the pendency of the suit, to stay the enforcement of such order.

4. Learned counsel for the petitioner does not dispute the above proposition and requests for disposal of the writ application granting liberty to the petitioner to approach the concerned respondent authority for proper adjudication of the matter.

5. In view of the aforesaid submission, let the petitioner file afresh application before the concerned respondent authority for adjudication of the matter, within a period of four weeks from the date of receipt of this order.

6. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

7. Writ petition stands disposed of with the aforesaid directions.

(Prabhat Kumar Singh, J)

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