

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15507 of 2018**

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1. Gayanand Yadav,
2. Sadanand Yadav,
3. Nand Kishore Yadav, All sons of Late Shahib Lal Yadav @ Saheb Lal Yadav
4. Santolia Devi, daughter of Late Shahib Lal Yadav @ Saheb Lal Yadav, All residents of Village Post Office - Makaili Belgachchi, Police Station - Baisi Dagarua, District Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Purnea
2. The Sub-Divisional Officer, Baisi, Purnea.
3. The Circle Officer, Baisi at present Dagarua, District Purnea.
4. Arjun Nizamia of Makaili (Religious Trust) through its Secretary Md. Ekram son of Nooruddin situated at Village P.O. Makaili (Belgachchi), Police Station Baisi (Dagarua), District - Purnea.
5. Bhagali Devi widow of Fakir Chand Yadav
6. Rakesh Yadav son of Late Fakir Chand Yadav
7. Bindeshwari Yadav son of Sundi Gope
8. Yogendra Yadav, son of Sundi Gope Sl. Nos. 5 to 8 residents of Village - Makaili (Belgachchi), Police Station - Basi (Dagarua), District Purnea.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Prabhu Narayan Sharma, Advocate<br>Mr. Madhu Sudan Rai, Advocate<br>Mr. Jagannath Prasad, Advocate |
| For the State        | : | Mr. Sajid Salim Khan, S.C-25<br>Ms. Prakritita Sharma, A.C to S.C-25                                   |
| For the Resp. No. 4  | : | Mr. Ray Saurabh Nath, Advocate                                                                         |

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 20-02-2023**

Heard learned counsel for the petitioners, learned  
Standing Counsel for the respondent State and learned counsel  
for the respondent no.4.

The petitioners have filed the instant application for  
the following relief(s):



*“To quash the order dated 29.11.2016 passed by the Mr. K.P. Ramaiah, Member, Administrative, the Bihar Land Tribunal, Patna in B.L.T. Case No. 547 of 2013, whereby and whereunder the order dated 18.12.1997 passed by the learned Sub-Divisional Officer, Baisi, Purnea in Revisional Appeal No. 06 of 1996-97 under Section 48 (D) of the Bihar Tenancy Act, 1985 has been quashed and matter has been remanded back to the S.D.O. Baisi, Purnea, which is wrong, illegal and without jurisdiction.”*

The case of the petitioners in brief is that the petitioners are the legal heirs of Late Saheb Lal Yadav who was respondent no.7 in B.L.T Case no. 547 of 2013 and who died on 20.2.2018. The land in question appertains to Kaimi Khata no. 92, Sikmi Khata no. 21, plot nos. 710 (area 2.34 acres), 609 (area 1.26 acres) and 638 (area 0.19 acres) measuring total area of 3.79 acres and of Sikmi Khata no. 22 and plot nos. 708/1334 (area 1.72 acres) and 610 (area 0.14 acres) measuring total area of 1.86 acres situated in village Makaili, Thana no. 342, P.S. Baisi (Amoar) in District- Purnea.

On an application having been filed by the four persons namely Chulhia Devi, Bhagali Devi, Fakir Chand Yadav and Saheb Lal Yadav, under section 48D of the Bihar Tenancy Act, 1885 (herein after referred as ‘the Act’ ), by order



dated 25.11.1995 passed in Case no. 25 of 1993-94 the Circle Officer was pleased to reject the petition filed by them. Against the order dated 25.11.1995 of the Circle Officer, an appeal was preferred which was registered as Revenue Appeal no. 6 of 1996-97. By order dated 18.12.1997 the Sub-Divisional Officer, Baisi, Purnea was pleased to allow the said appeal. Against the order dated 18.12.1997, Revenue Revision no. 57 of 2002-03 was preferred before the Commissioner, Purnea Division, who by his order dated 2.9.2006, held that he has no jurisdiction to hear the Revision against the order passed by the Sub-Divisional Officer under section 48D of the B.T. Act. Thereafter against the order date 18.12.1997 passed by the S.D.O, Baisi, Purnea in Revision Appeal no. 6 of 1996-97, the respondent no.4 moved the Bihar Land Tribunal, Patna in Case no. 547 of 2013. The Member (Administrative), Bihar Land Tribunal by his order dated 29.11.2016 taking note of the fact that as per the available record, no Board was constituted, he remanded the matter back to the S.D.O, Baisi, Purnea to constitute a Board and conduct a local inquiry after giving opportunity to both the parties. The Tribunal set aside the order passed by the S.D.O, Baisi, Purnea and directed the matter be finalised as per law.

Counter affidavits have been filed on behalf of the



respondent no. 4 as also on behalf of respondent nos. 1 to 3.

It is submitted by learned counsel appearing for the respondent no.4 that pursuant to the order dated 29.11.2016 of the Tribunal, the Board has already been constituted and meetings of the Board are being conducted in the office of the Circle Officer, Dagarwa. It has further been submitted that the petitioners have preferred the instant writ application after the delay of two years and are also participating in the proceeding of the Board by nominating two members. It is submitted that there is no illegality in the order dated 29.11.2016 passed by the learned Tribunal and there being no merit in the application filed by the petitioners, the same be dismissed.

Having heard learned counsel for the parties and having perused the material on record, it transpires that the instant application arises from an application filed by four persons including the father of the petitioners herein namely Saheb Lal Yadav under section 48D of the Bihar Tenancy Act, 1885. Section 48D of the Act provides that if an application is made in the prescribed manner, the occupancy *under-raiyat* shall be entitled to acquire the right of a *raiyat* subject to the payment to be made as may be prescribed by the State Government. Further section 48E of the Act provides with



respect to prevention of threatened ejectment of *under-raiyat* and restoration of possession of *under-raiyat* unlawfully ejected. Section 48E(3) and (4) of the Act provide that when a proceeding is initiated under section 48E(1) of the Act, the Collector may refer the matter/dispute to a Board to be appointed by him for promoting settlement of dispute between the *under-raiyat* and the landlord. The Board shall consist of a Chairman and two members to represent the parties to the dispute who shall be appointed on the recommendation of that party. Relevant portion of section 48E (3) and (4) of the Act, 1885 is quoted herein below:

*“(3) When a proceeding is initiated under sub-section (1) the Collector may refer the matter (hereinafter referred to as "dispute") to a Board to be appointed by him, for promoting the settlement of the dispute between the under raiyat and the landlord.*

*(4) A Board to be appointed by the Collector in the prescribed manner under sub-section (3) shall consist of a Chairman; who shall be unconnected with the dispute referred to such Board or with any party directly affected by such dispute and two members to represent the parties to the dispute and the person appointed as a member to represent any party shall be appointed on the recommendation of that party:*



*Provided that if any party does not nominate any person to represent him the Board or nominates a person who is not available within such time as the Collector considers reasonable, the Collector may appoint such person as he thinks fit to represent that party”*

So far as the instant case is concerned, by the order impugned dated 29.11.2016 passed in the Case no. 547 of 2013 by the learned Tribunal, as no Board was constituted, the learned Member (Administrative) has remanded the matter back to the S.D.O. Baisi, Purnea to constitute a Board and conduct a local inquiry after giving ample opportunity to both the parties. Further, as stated above, from the counter affidavit of the respondent no.4 it would transpire that the petitioners are participating in the proceedings of the Board by nominating two members. In view of the provisions of section 48E of the Act, relevant portions of which have been quoted herein above, the Court finds no illegality in the order passed by the learned Tribunal and no merit in this application of the petitioners.

The writ petition stands dismissed.

**(Partha Sarthy, J)**

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