

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4216 of 2018**

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1. Yamuna Upadhyay
2. Devshankar Upadhyay
3. Kameshwar Upadhyay  
All sons of Late Buteri Upadhyay All are residents of village - Panapur,  
Police Station - Karaghar, District - Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner, Patna Division, Patna.
3. The Deputy Collector, Land Reforms, Sasaram.
4. The Circle Officer, Karaghar, District - Rohtas.
5. Sheo Shankar Upadhyay son of Late Ram Bahal Pathak resident of village -  
Baheri, Police Station - Karaghar, District - Rohtas.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Surendra Kumar Choubey, Adv.  
For the Respondent/s : Mr. Subhash Chandra Yadav -GP15

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL JUDGMENT**

**Date : 18-11-2024**

In the instant petition, the petitioners have prayed for  
following reliefs:-

*“i) Issuance of a writ in the nature of writ of mandamus directing the respondent authorities not to create any new entries in the record of jamabandi register in the name of respondent no.5 or their purchaser is view of order passed by the respondent no.2 Commissioner, Patna Division, Patna in Land Dispute Appeal No. 122/2016.*

*ii) Issuance of a writ in the nature of writ of mandamus directing the concerned*



*respondent authorities to comply with the order passed in Land Dispute appeal No. 122/2016.*

*iii) Issuance of appropriate writ(s) or order(s) or direction to the private respondents No.5 not to sell the ancestral land or parental land of the petitioners being son of Late Buteri Upadhyay as respondent No.5 had already been adopted by wife of Late Ram Bahal Pathak and respondent No.5 has no right, title in the land of Late Buteri Upadhyay after the adoption by Late Lakho Kuer wife of Ram Bahal Pathak as respondent no.5 became a natural son heir and successor of Bahal Pathak after adoption.*

*iv) Issuance of any other writ(s) or order(s) or direction(s) which may be deemed fit and proper in the facts and circumstances of the case.”*

2. Learned counsel for the petitioner submits that the order of DCLR has already been set aside by the Commissioner, Patna and the petitioners have not put any grievance against any appropriate authority before approaching this Court.

3. Learned counsel for the State submits that the petitioner has not availed appropriate remedy against the order passed by the Commissioner and directly approached this court without availing alternative remedy and there is no demand before any competent authority and in the light of aforesaid, the



present petition is not maintainable.

4. Be that as it may, for seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent authority is not forthcoming.

5. Accordingly, the present writ petition stands disposed of as not maintainable.

6. However, disposal of the writ petition would not be hurdle for the petitioner to represent his grievance before the concerned authority within four weeks from the date of receipt of this order.

7. It is needless to mention that the period spent in pursuing the matter before this Court be considered sympathetically while dealing with the aspect of condonation of delay.

**(Alok Kumar Pandey, J)**

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