

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4 of 2024

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Kamal Ray Son of Late Chandradeep Ray, resident of village - Dighikala,
P.O. - Dighikala, P.S. - Hajipur Sadar, District - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Director, Land Records and Survey, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, District - Vaishali at Hajipur.
4. The Sub-Divisional Officer, Hajipur, District - Vaishali.
5. The Circle Officer, Circle- Hajipur, District - Vaishali.
6. Ranjeet Kumar Sah, Son of Late Kashinath Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
7. Pawan Kumar Gupta, Son of Late Shambhunath Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
8. Akhil Bhartiya, Son of Late Mahesh Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
9. Nikhil Bhartiya, Son of Late Mahesh Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
10. Jai Narayan Sah, Son of Late Sukhdeo Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
11. Amit Kumar Sah, Son of Late Chandu Prasad Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.
12. Anish Kumar Sah, Son of Late Chandu Prasad Sah, Resident of village- Dighi Kala, P.O. - Dighi Kala, P.S. - Hajipur Sadar, District - Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Chaudhury, Sr. Advocate
Mr. Akshansh Ankit

For the Respondent/s : Mr. Binod Kr. Yadav (Sc18)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-04-2024 Heard Mr. Ashok Kumar Chaudhary, learned Senior

counsel for the petitioner and Mr. Shivnandan Singh, Sr.

Counsel who is representing the respondent nos. 6 and 7.



2. The challenged in the writ petition is the order dated 30.06.2023 passed in B.L.T. Case No. 290 of 2023 by the Bihar Land Tribunal, Patna by which the Tribunal in paragraph nos. 10 and 111 held as follows:-

“This Tribunal further finds that initial order passed by Circle Officer in Bataidari Case No. 34 of 2014-15 is nullity because he has passed order against dead person without hearing the landlord. There is no material on record that petitioner was declared occupancy raiyat under the provision of Section 48C of BT Act prior to passing order under Section 480 of BT Act. It is only occupancy under raiyat who can make an application in the prescribed manner to be entitled to acquire right of a raiyat under Section 48D of B.T. Act. The order passed in Suit No. 442 of 1976 was nullity because Section 111 of B.T. Act was already repealed by Section 9 of Bihar Tenancy (Amendment) Act 1964 (Bihar Act No. 11 of 1965) much prior to filing of aforesaid petition under Section 111 of B.T. Act by the petitioner in the year 1976.

Therefore, there is no illegality in the impugned order passed by learned S.D.O. Hajipur, District- Vaishali in Bataidari Appeal No. P-907 of 2022 dated



10.01.2023 by which he has set aside the order passed by learned Circle Officer, Hajipur in Bataidari Case No. 34 of 2014-15 dated 20.01.2015, declaring raiyati right of petitioner over the land in question under Section 48D of B.T. Act.”

3. The case in short is that the Circle Officer, Hajipur, in Bataidari Case No. 34 of 2014-15 declared the *raiya* rights in favour of the petitioner under Section 48(D) of the Bihar Tenancy Act (henceforth for short ‘the Act’) after holding that notices were issued to the land holders but they chose not to appear.

4. Aggrieved, the respondent nos. 6 and 7 moved before the learned Sub Divisional Officer, Hajipur, Vaishali in Bataidari Appeal No. 907 of 2022 stating that though the case before the office of Circle Officer, Hajipur, Vaishali was initiated in the year 2014-15, long before that, the land holders namely, Sukhdeo Sah, Ramshobit Sah and Shambhunath Sah died on 28.11.2001, 27.07.1986 and 06.05.2008 respectively.

5. The submission before the learned Sub Divisional Officer, Hajipur, Vaishali was that in the said circumstances, when the notices were issued against the dead persons and naturally, there was no appearance which followed the order. Accordingly, the S.D.O. allowed the appeal setting aside the



order of the Circle Officer, Hajipur.

6. It was challenged before the Tribunal which passed the order.

7. Learned Senior Counsel, Mr. Choudhury though tried to pursue the case of the petitioner as also his rights, in view of the fact that glaring irregularity that was committed by the Circle Officer, Hajipur, Vaishali by issuing notices upon the dead persons and then passing the order incorporating that they did not appear, both the Sub Divisional Officer, Hajipur Vaishali as also 'the Tribunal' were perfectly justified in passing the orders in question.

8. The petition lacks merit and is accordingly, dismissed.

(Rajiv Roy, J)

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