

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8155 of 2017

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1. Md. Kalim S/o SK. Hussain,
 2. Md. Salim S/o SK. Hussain,
 3. Md. Taslim, S/o SK. Hussain,
 4. Md. Mohiuddin, S/O Sk. Kabir, All resident of Village- Bhawanipur, P.O.- Bhawanipur, P.S. Amour, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Sub Divisional Office Baisi, P.S. Baisi, District- Purnea.
3. The Circle Officer Amour, P.S. Amour, District- Purnea.
4. S.K. Suleman, S/o Late Ghai, resident of Village and P.O.- Bhawanipur, P.S.- Amour, District- Purnea.
5. Md. Shafique Rabbani, S/o Late SK. Suleman,
6. Bibi Saleha Khatoon, D/o Late SK. Suleman,
7. Bibi Ashma Khatoon, D/o Late SK. Suleman, Respondents No. 5 to 7 are residents of Village- Pahariya, P.O. Amour, P.S. Amour, District- Purnea.
8. Bibi Ediya Khatoon, W/o Md. Zubair, resident of Village- Bhawanipur, P.S. Amour, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar
For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 16-04-2025 Heard the parties.

2. The present appeal has been preferred for the grant
of following relief:

*(i) For issuance of writ in the nature of
certiorari or any other appropriate writ for
quashing the order dated 23-01-2017 passed by
Shri K.P. Ramaiah learned member*



Administrative Bihar Land Tribunal Patna in BLT Case No. 1345 of 2015 whereby learned court dismissed the application of petitioner and confirming the order of CDO Baisi and order of Circle Officer, Amour.

(ii) For quashing the order dated 28-12-2011 passed by S.D.O. Baisi in B.T. Appeal No. 7 of 2010 whereby S.D.O, Baisi set aside the appeal of petitioner.

(iii) For also set aside of order dated 06-11-2007 passed by C.O. Amour in B.T. Case No. 22 of 2008-09 under section 48 D, B.T. Act.

(iv) Any other reliefs as your lordships may be entitled in the fit and circumstance of the case.

3. It is the case of the petitioners is/are are that for residential purposes and by way of sale deed, the Kaimi right was purchased from the landlord Shafiq Rabbani who is son of Suleman in the year 2007. They also purchased Sikmi right from the son of Sikmidar Yusuf son of Gul Mohammad. However, some portion was purchased from Haroon in 1985 who in turn had purchased it from Gul Mohammad.

4. In view of the fact that the petitioners purchased



Kaimi as well as Sikmi right, they were entitled to the house under Indira Awas. The matter went to the Circle Officer, Amour, decided against the petitioners and was dismissed on 06.11.2008. The appeal before the Sub-Divisional Officer Baisi also came to be dismissed on 28.12.2011 in Tenancy Appeal No. 07 of 2010.

5. The matter finally went before the Bihar Land Tribunal, Patna in BLT Case No. 1345 of 2015. The Tribunal took up the matter and paragraph no.7 recorded as follows:

7. The total area of the related Plot no. 979 is 72 decimals and after deduction of the Basgit area there remained 64 decimals only. The petitioners claimed to have purchased Sikmi interest from the sons of Gul Mohammad initially and subsequently they claim to have purchased a portion of the related Plot no. 979 from the sons of the recorded Kaimidar on 22.6.2007. Transfer of Sikmi interest being illegal, though subsequently portion has been claimed to have purchased from the heirs of the recorded Raiyat but since the opposite party no. 4 has been in actual cultivating possession of the land in question. The petitioners could not come in possession of the land in question. The father of the opposite party no. 4 died in 1980. At the relevant time the law permitted succession in case o death of Sikmidar. Therefore the case of



the petitioners that the opposite party did not derive interest on the death of his father is not according to law. The opposite party has been continuous cultivating possession. Since the Kaimidar held large area of lands undisputedly under whom the opposite party has been cultivating the land as Sikmidar from the time of his father therefore the plea of the petitioners of their being landless and that also on their purchase in 2007 in of no consequence.

Having heard both the parties and perused the relevant papers on record, it appears there is no infirmity in the order passed by the Circle Officer and subsequent order of the Sub-Divisional Officer, which are upheld. This application is dismissed.

6. The Tribunal having found that the opposite party has remained in continuous cultivating possession and the petitioners could not make out a case, having found no infirmity in the order of the Circle Officer and the Sub-Divisional Officer, it was dismissed.

7. Aggrieved, the present writ petition.

8. Learned counsel for the petitioners submit that the aforesaid facts that he purchased both from the landlord as also Sikmidar were not considered and successive orders passed against them and to the benefit of the private respondents which



need to be set aside.

9. A counter affidavit has come on behalf of the respondent no. 1, 2 and 3 duly signed by the Circle Officer, Amour and has supported the successive orders against the petitioners.

10. This Court has also gone through the facts of the case and the materials available on record. The Tribunal came to a definite conclusion that the opposite parties have remained in continuous cultivating possession and had been cultivating the land as Sikmidar from the time of his father and thus also the claim of the petitioners are that they are landless and have purchased the same in 2007 has no consequence.

11. In that background, this Court is of opinion that the petitioners having lost the case at all stage and rightly so, no relief can be granted, the writ petition stands dismissed.

(Rajiv Roy, J)

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