

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.554 of 2025**

**In**  
**Civil Writ Jurisdiction Case No.876 of 2025**

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Atul Kumar S/o Late Radha Yadunath Singh, Village - Chainpur Mubarakpur,  
P.O. - Chainpur, Mubarakpur, P.S. - Chainpur, Block - Siswan, District- Siwan  
- 841203, residing in Rental Flat No. - 75, Kankarbagh Colony, P.O. - West  
Lohia Nagar, Kankarbagh Colony, Patna - 800020.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land reform Department, Govt. of Bihar, Old Secretariat, Patna, Patna - 800001.
2. The District Magistrate, Siwan namely Mr. Mukul Kumar Gupta.
3. The Assistant Collector, Siwan namely,
4. The Land Reforms Deputy Collector, Siwan namely,
5. The Circle Officer, Circle - Siswan, District- Siwan namely,
6. The Station House Officer, Chainpur Siwan.

... .. Opposite Party/s

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**Appearance :**

|                      |   |                                     |
|----------------------|---|-------------------------------------|
| For the Petitioner/s | : | Ms. Rishika Jha, Advocate           |
| For the State        | : | Mr. Ravi Kumar, AC to GP- 13        |
|                      | : | Mr. Akshay Lal Prasad, AC to GP- 13 |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

6      18-07-2025                      Learned counsel for the petitioner and learned  
counsel for the State are present.

2. The present application has been filed for  
modification in the order dated 28.01.2025 passed in CWJC No.  
876 of 2025.

3. Learned counsel for the petitioner submits that the  
said mistake in the order sheet occurred due to an inadvertent  
error on the part of the counsel at the time of drafting the writ



petition. The block name was wrongly typed as 'Siwan' instead of 'Siswan', and due to the incorrect name of the block, the mistake occurred in the order sheet.

4. Counsel further submits that in different places in the writ petition, namely, paragraph Nos. 3, 4, 7, and 9, the block name has been incorrectly typed as 'Siwan' instead of 'Siswan', but the corresponding annexures filed with the writ petition indicate that the correct block is 'Siswan' and not 'Siwan'. Counsel further submits that in light of the inadvertent mistake that has occurred in the writ petition, permission for correction in the writ petition as well as in the order dated 28.01.2025 passed in CWJC No. 876 of 2025 be granted.

5. Counsel further submits that in the third line of the fourth paragraph at page No. 2 of the order sheet, the *Bihar Privileged Persons Homestead Tenancy Act, 1947* has been wrongly typed in place of the *Bihar Tenancy Act, 1885 (Act 8 of 1885)*, which also requires correction.

6. Counsel further submits that Sections 151, 152, and 153 of the Code of Civil Procedure, 1908, specifically empower the Court to deal with such situations. In support of her argument, counsel further submits that this Hon'ble Court, vide judgment dated 16.05.2025 passed in MJC No. 1618 of 2025 in



CWJC No. 3147 of 2025, has discussed the matter in detail and granted permission to make necessary corrections in the writ petition as well as amended the order.

7. In support of her argument, counsel relied on the judgment passed by the Hon'ble Madhya Pradesh High Court in Misc. Appeal No. 4461 of 2022, as well as on the judgment passed by the Hon'ble Allahabad High Court in the case of ***Mona Singh***, reported in ***2005 SCC OnLine ALL 1273 : (2006) 1 ALL LJ 862***.

8. Upon perusal of the said judgment in the case of ***Mona Singh***, the discussions made in paragraph Nos. 9, 10, 12, and 13 are as follows:-

*9. The figure of Rs. 7,35,459/-, mentioned in paragraph 7 of the Testamentary Petition and in paragraph 8 of the Affidavit accompanying the Testamentary Petition as also in paragraph 3 of the Affidavit of Valuation, is evidently based on the Schedule to the Affidavit of Valuation.*

*10. However, a perusal of the Schedule to the Affidavit of Valuation shows that the total value of the assets of the deceased has been mentioned as Rs. 7,34,459/-, instead of Rs. 7,35,459/- as mentioned in paragraph 7 of the Testamentary Petition and in paragraph 8 of*



*the affidavit accompanying the Testamentary Petition as also in paragraph 3 of the Affidavit of Valuation.*

*12. It is pertinent to note that along with the Testamentary Petition, the Petitioner filed various documents, as per the details given in the List of Documents. The said documents include the relevant extracts of the Pass Books in respect of the aforesaid three Savings Bank Accounts. The said extracts of the Pass Books appear at pages 18/, 19 and 20, respectively of the Paper Book of the Testamentary Petition.*

*13. A perusal of the said extracts of the Pass Books shows that the figure of Rs. 4,194.00, shown in the Schedule to the Affidavit of Valuation in respect of the Savings Bank account mentioned at Serial Number (3) above, tallies with the figure occurring in the extract of the Pass Book of the said Savings Bank Account occurring at page 20 of the Paper Book of the Testamentary Petition. However, the figure of Rs. 1,500.00, shown in the Schedule to the Affidavit of Valuation in respect of the Savings Bank Account mentioned at Serial Number (1) above, does not tally with the figure occurring in the extract of the Pass Book of the said Savings Bank Account occurring at page 18 of the Paper Book of*



*the Testamentary Petition. As per the extract of the Pass book, the figure should be Rs. 150.00. similarly the figure of Rs. 3,500.00, shown in the Schedule to the Affidavit of Valuation in respect of the Savings Bank Account mentioned at Serial Number (2) above, does not tally with the figure occurring in the extract of the Pass Book of the said Savings Bank Account occurring at page 19 of the Paper Book of the Testamentary Petition. As per the extract of the Pass Book, the figure should be Rs. 1,271.40.*

9. Considering the above discussion, this Court feels it necessary to cite Rule 23 of Tenancy Rule in Bihar Tenancy Act, 1885 (Act 8 of 1885).

**23. Rights of raiyat in respect of use of land.**-(1) *When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy. [Except as provided in sub-section (4)].*

(2) *The following shall not be deemed to impair the value of the land materially or to render it unfit for the purposes of the tenancy, namely-*

(a) *The manufacture of bricks and tiles for the domestic or*



*agriculture purposes of the raiyat and his family or for any educational or charitable purpose;*

*(b) the excavation of tanks or the digging of wells intended to provide a supply of water for drinking or other domestic purposes of the raiyat and his family or to any religious or charitable institution; and*

*(c) the erection of building for the domestic or agricultural purposes of the raiyat and his family or for any educational or charitable purpose.*

*(3) If an occupancy-raiyat, who pays for his holding rent in any of the ways specified in sub-section (1) of Section 40, excavates a tank on such holding for any purpose mentioned in clause (b) of sub-section (2), the landlord and the raiyat shall be entitled to equal shares in the produce of such tank.*

*[(4) A raiyat may, with the previous permission of the Collector, use his land for the purposes not enumerated in sub-section (2):*

*Provided that before giving such permission the Collector shall redetermine the rent of such land in the prescribed manner to the extent of five per cent of the market value of the land:*



*Provided further that if a raiyat has not taken prior permission of the Collector, the Collector may give post facto permission on payment of double amount of the rent which he would have paid for obtaining prior permission, for the period between the date of commencement of use for purposes other than those enumerated in sub- section (2) and the date of application or detection, as the case may be :*

*Provided also that if a raiyat has been using his land for purposes other than those enumerated in sub-section (2), from before the commencement of this Act, he shall apply within 90 days of the date of commencement of this Act for permission to the Collector who on receipt of such application shall proceed in such manner as if the above use had started on the date of commencement of this Act. If the raiyat fails to do so, he shall be liable for payment of double amount of the rent which he would have been liable to pay, had he applied in time for the period between the date of commencement of this Act and the date of application or detection as the case may be :*

*Provided further also that the Collector shall have the power to revise the rent so determined after every ten years.*

*(5) (a) An appeal against an order passed under this Section shall lie within a period of 30 days from the date of such order-*



*(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.*

*(b) The Collector of the district may, at any time transfer any appeal filed before him to any officer specially empowered 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.*

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

10. Taking into account the facts and circumstances, counsel for the petitioner is directed to amend paragraphs Nos. 3, 4, 7, and 9 of the writ petition today itself in Court in the writ petition, which is attached to the MJC petition and the order dated 28.01.2025 passed in CWJC No. 876 of 2025, particularly, on the title page, the block name 'Siwan' shall be read as



‘Siswan’, and in the third line of the fourth paragraph at page No. 2 of the order sheet, *Bihar Privileged Persons Homestead Tenancy Act, 1947* shall be read as *Bihar Tenancy Act, 1885 (Act 8 of 1885)*.

11. Accordingly, the present MJC application is hereby allowed, and the order dated 28.01.2025 passed in CWJC No. 876 of 2025 is modified to that extent.

**(Dr. Anshuman, J.)**

Aman Kumar/-

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