

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10215 of 2019

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1. Most. Beli Devi W/o Late Bechan Chauhan Vill.- Teera, P.o.- Gaura, P.s.- Sadar, Distt.- Purnea
 2. Santosh Kumar Chauhan S/o Late Bechan Chauhan Vill.- Teera, P.o.- Gaura, P.s.- Sadar, Distt.- Purnea
 3. Bimal Chauhan S/o Late Bechan Chauhan Vill.- Teera, P.o.- Gaura, P.s.- Sadar, Distt.- Purnea
 4. Chandani Devi D/o Late Bechan Chauhan W/o Ram Prasad Chauhan, Vill.- Teja Tola, P.s.- Katihar, Distt.- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, patna
2. Collector Purnia
3. Sub Divisional Officer Sadar Purnia
4. Circle Officer Purnia East Anchal, Distt.- Purnia
5. Subhash Chandra Roy S/o Late Dinanath Roy Vill.- Chunnapur, P.s.- K. Nagar, Distt.- Purnia, at present residing at Sipahi Tola near Dolar House Chowk, P.s.- K. Hat, Distt.- Purnia

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Pd. Singh, Sr. Advocate Mr. Varun Krishna Singh, Advocate Mr. Venkatesh Kaushik, Advocate
For the Respondent No. 5 :		Mr. Amit Kr. Jha, Advocate Mr Ashish Kr. Sinha, Advocate
For the State	:	Mr. Viveka Nand Singh, AC to GP 18

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 04-11-2025 Heard Mr. Varun Krishna, learned counsel for the petitioners, learned counsel for the State as well as learned counsel appearing on behalf of respondent No. 5.

2. The petitioners, in the present writ petition, prays for the following relief:-

*“That, this is an application for
issuance of a writ in the nature of certiorari
setting aside the order/judgment dated
18.12.2018 passed by the Bihar Land*



Tribunal, Patna in B.L.T. Case No. 657 of 2016 by which case preferred by the petitioners has been dismissed by affirming the order dated 10.09.2018 passed by the Sub-Divisional Magistrate, Sadar Purnia in Appeal No. 08 of 1998 arising out of a proceeding under Section 48D of the Bihar Tenancy Act (in short 'B.T. Act') whereby appeal preferred by the landlord (respondent no. 5) has been allowed and order dated 31.01.1998 passed by the Circle Officer, Purnia East Anchal Purnia in Case No. 46 of 1997-98 has been set aside and/or to grant any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.”

3. The matter relates to a piece of land at Thana No. 368 Khata No. 84, Sikmi Khata No. 20/84, Plot No. 121 having 4.45 acres situated in Mauza Teera within the District of Purnia which was recorded in the name of late Dinanath Rai, father of respondent No. 5 as a Raiyat.

4. The consistent claim of the petitioners is/are that late Kashi Chauhan, father-in-law of the petitioner No. 1 and grandfather of petitioner No. 2 to 4 were under Raiyat under the provisions of the Bihar Tenancy Act (henceforth reads as ‘the B.T. Act’) and having fulfilling all the criteria for declaring them as Raiyat, having raiyati rights, filed case before Circle Officer under



Section 48 D of the said act. This led to Case No. 46 of 1997 – 98, it was decided in favour of the petitioners *vide* order dated 31.01.1998.

5. Respondent No. 5, landlord challenged the said order by filing Revenue Appeal No. 08 of 1998 before Sub Divisional Officer, Sadar - Purnia. It was allowed on 10.09.1998 (Annexure - 3 to the petition). The reasons for allowing the petition was that the S.D.M. came to the conclusion that landlord is having less land as prescribed under Section 48 C of the B.T. Act and, therefore, the relief cannot be extended under Section 48 D of the B.T. Act to the petitioners.

6. Aggrieved, the petitioners preferred Revenue Appeal No. 125 of 1998 before the Collector Purnia which was dismissed for non-prosecution on 27.03.2015 (Annexure - 7 to the petition). Thereafter, the petitioners approached the Bihar Land Tribunal (henceforth for short ‘the Tribunal’) by filing B.L.T. case No. 657 of 2016 [Bechan Chauhan (husband of petitioner No.1) vs. The State of Bihar and Ors.] The matter was taken up by the Tribunal on 18.12.2018 and findings have been recorded in paragraph Nos. 4 and 5 and which read as follows :

“4. It appears from the records that the petitioner filed an application against the above order of the appellate authority before the Collector of the district



but the said case being Revenue Case No. 125/1998 was dismissed for want of prosecution by order dated 27.03.2015 (Annexure-6). The present application has been filed on 21.07.2016 by the petitioner along with an application for condonation of delay. However, there is no averment in the condonation petition stating the circumstances occurring after the dismissal of the said Revenue Case on 27.03.2015 till the filing of the present application which prevented the petitioner from approaching this tribunal within reasonable time. Even otherwise also it does not appear that the assertion by the O.P. No. 5 regarding holding less than 5 acres of land was controverted by the petitioner before the appellate authority by bringing on record cogent evidence. In the present application also besides a bald submission that the O.P. No. 5 hold 17 acres of land, there is no cogent evidence or material on record on behalf of the petitioner to substantiate the said fact.

5. For the above reasons and discussion, this court does not find any reason to interdict the impugned order. This application is accordingly, dismissed.”

7. Learned counsel for the petitioners submit that it was



the duty of the respondents to prove that they did not have land more than 5 acres instead of putting the pressure on the petitioners.

8. The said contention put forth by the learned counsel for the petitioners has to be rejected. The clear finding of both the Sub-Divisional Officer as also 'the Tribunal' is/are that the opposite party No. 5 is holding less than 5 acres of land which was never controverted by the petitioner No. 1, the husband either before the authority and/or 'the Tribunal'. It was further held that no cogent material and/or evidence is on record to substantiate the fact that opposite party No. 5 hold 17 acres of land as claimed by the petitioner.

9. The writ petition was filed in the year 2019, six years have lapsed, there is no document/piece of paper/contention to prove the fact that the petitioner - opposite party No. 5 owns more than 5 acres of land warranting interference by the Court. In that background, this Court do not find any reason to interfere with the consistent orders passed in the matter.

10. The writ petition, accordingly, stands dismissed.

(Rajiv Roy, J)

GAURAV S./-

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