

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13854 of 2017

- 1.1. Kalpana Singh Wife of Late Nirbhay Kumar Singh, Resident of Village, Kathail, P.S. Amarpur, District - Banka and also present resident of House - Kusumlata, Road no. 25 (F), Mohalla and P.S. - Rajeev Nagar, Town and District of Patna.
- 1.2. Peeyush Pratap Singh Son of Late Nirbhay Kumar Singh, Resident of Village, Kathail, P.S. Amarpur, District - Banka and also present resident of House - Kusumlata, Road no. 25 (F), Mohalla and P.S. - Rajeev Nagar, Town and District of Patna.
- 1.3. Pratyush Pratap Singh, Son of Late Nirbhay Kumar Singh, Resident of Village, Kathail, P.S. Amarpur, District - Banka and also present resident of House - Kusumlata, Road no. 25 (F), Mohalla and P.S. - Rajeev Nagar, Town and District of Patna.
2. Ajay Kumar Singh,
3. Raj Kumar Singh, All sons of Late Gunishwar Singh and all residents of Village- Kathail, P.S.- Amarpur, District- Banka and petitioner no.1 presently residing at Road No.25F, P.S.- Rajeev Nagar, Town and District- Patna.
4. Priyamvada Devi, Wife of Late Pradyuman Tiwari, Resident of Village- Khemnichak, P.S.- Amarpur, District- Banka.
5. Pashupati Singh, Son of Late Abhiram Singh,
6. Manju Devi, Wife of Pashupati Singh, Both 5 and 6 residents of Village- Kathail, P.S.- Amarpur, District- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Commissioner, Bhagalpur Division.
4. The Collector, Banka.
5. The Collector, Bhagalpur.
6. The Deputy Collector Land Reforms in short DCLR, Banka.
7. The Circle Officer, Amarpur Block, Banka.
8. Sri Brajesh Kumar, Son of not known, Resident not known, erstwhile DCLR of Banka and Presently posted as DCLR Sitamarhi Western Sadar.
9. Umesh Prasad Singh, Son of Late Tez Narayan Singh, Resident of Village and P.O.- Kathail, P.S.- Amarpur, District- Banka.
10. Narain Bhuwaniya, Son of Late Ramanand Bhuwaniya,
11. Chandi Bhuwaniya,
12. Nirmal Bhuwaniya, Both 11 & 12 sons of Todaramal Bhuwaniya, All 10 to 12 residents of Rajendra Prasad Road, P.O.- Sujaganj, P.S.- Kotwali, Town and District- Bhagalpur.



13. Amit Singh, Son of Mohan Singh, Resident of Village and P.O.- Kathail,
P.S.- Amarpur, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dev Kumar Pandey, Advocate
For the State : Mrs. Nutan Sahay, AC to AAG-12
For the Resp. No. 9 : Mr. Dharendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 04-08-2025 Heard Mr. Dev Kumar Pandey, learned counsel for

the petitioners and Mr. Dharendra Kumar, learned counsel
representing the respondent no.9 as also Mrs. Nutan Sahay,
learned AC to AAG-12.

2. The present petition has been preferred for the
grant of following relief(s):

*(a) To set aside the order dated
11.07.2017 passed by the Respondent no.8 in
Bataidari Case No.24 of 2003-04, which was
heard afresh after quashing of the earlier orders
pertaining to the same case and being remitted
back by the order dated 06.04.2016, passed by
the Bihar Land Tribunal, Patna in BLT Case No.
868 of 2015 and by the impugned order the
Respondent DCLR allowd the Bataidari claims
of Respondent no. 9, in utter violation of the
principles of natural justice and without giving*



any notice/opportunity of hearing to the petitioner nos. 1 to 4 and further disposing the case in favour of Respondent no. 9 even without constituting any Bataidari Board which is in utter defiance of the BLT order dated 06.04.2016 whereby it was directed to initiate the proceeding afresh from the stage of section 48-E(3) of the Bihar Tenancy Act.

(b) For setting aside the entire Bataidari Case No. 24 of 2003-04 which has been disposed illegally by the impugned order dated 11.07.2017 as the same is vitiated under the law.

(c) Any other relief or reliefs as deem fit & proper in facts & circumstances of the petitioner's case.

3. The petitioners lay their claim on a piece of land at Mauza Rampur under Amarapur Police Station in the district of Banka, the details of which has been incorporated as under:

Khata No.	Khesra No.	Area
(New)	(New)	A-D
206	273	0-28
	274	0-33



	280/162	0-39
	281/162	0-07
	279	0-31
Total Area		1-38 Acres

4. The original owners of the land is/are were respondent no. 10 to 12. Earlier, the respondent no.9 claiming himself to be 'Bataidar' approached the Deputy Collector, Land Reforms, Banka in **Case No. 24 of 2003-04 (Umesh Prasad Singh vs. Narain Bhuwaniya & Ors.)**.

5. It came to be disposed of on **08.09.2006** and the concerned court rejected the claim of the Bataidar/respondent no.9, Umesh Prasad Singh (Annexure-1 to the petition).

6. Aggrieved, **Bataidari Appeal Case No. 32 of 2006-07** was preferred which was allowed by the Collector, Banka vide an order dated **25.07.2009** (Annexure-2 to the petition).

7. In the meantime, the petitioners stepped in purchasing the land from respondent no. 10 to 12 and preferred **BLT Case No. 868 of 2015 (Pashupati Singh and Ors. vs. State of Bihar & Ors.)** after being remanded to the said court by Patna High Court in **CWJC No. 15109 of 2009 on 09.10.2015**.

8. 'The Tribunal' taking note of the fact that the



‘Bataidari Board’ was not constituted, set aside the earlier orders while allowing the parties to approach the Deputy Collector, Land Reforms, Banka vide an order dated **06.04.2016** (Annexure-3 to the petition).

9. The parties appeared and the same was decided in favour of respondent no.9 vide an order dated **11.07.2017** which necessitated filing of the present writ petition.

10. Learned counsel for the petitioners submit that without constituting the ‘Bataidari Board’, the concerned court passed the order which needs interference. As the technicality was not taken note of by the respondent, instead of approaching the Bihar Land Tribunal, Patna, the petitioner chose to directly move before this Court.

11. Mr. Dhirendra Kumar, learned counsel representing the respondent no.9 on the other hand has disputed the claim of the petitioners on the land in question. In between, the claim is that the respondent no.9 has purchased the land **Khata No. 206** from the original landholders (respondent no. 10 to 12). He submits that earlier the petitioners lay their claim over plot no. 220 (old Khata No. 44 and 96) and they also made submissions to this effect before the Tribunal which found reflected in paragraph no.6 of the order of the Bihar Land



Tribunal, Patna.

12. Paragraph no.6 of the aforesaid order read as follows:

“Before the Appellate Court, The present petitioners, who were respondents, had raised their objection regarding the land which is purchased by them stating that their purchased land is not the same land, which is being claimed by the Bataidars. The objection of the present petitioners was that Khata No. 206 has not been carved out from the old Khata No. 220, and old Khata No. 44 and 96. It has also been stated that there is no such order passed under Section 10 (II) of the Consolidation, Act, on any objection filed by the so called Bataidars, whereby lands in question had been held to be under his cultivation only photo copy of the order has been produced, but there is no such record available in the Consolidation, Office. The Appellate court has recorded finding that the D.C.L.R simply on presumption had relied on such an objection raised by the present petitioners, who were



respondents in Appeal. The D.C.L.R, should have called for the connected records from the Consolidation Office, but that was not done and simply on presumption findings was recorded by the D.C.L.R.”

13. He submits that the order in question also has taken note of the fact and accordingly declared him ‘Bataidar’ which need no interference.

14. A dispute has arisen whether the matter relates to Khata No. 206 or 220 as in the earlier round of litigation, the petitioners herein made their own submissions that Khata No. 206 has not been carved out from Khata No. 220.

15. In that background, now preferring a petition when they are laying their claim on Khata No. 206 as recorded above, such disputes cannot be adjudicated in a writ petition under Article 226 of the constitution.

16. Learned counsel for the petitioners submit that they shall be approaching ‘the Tribunal’ in next four weeks alongwith all the relevant documents.

17. Learned counsel representing the respondent no.9 submits that since the order is being passed in his presence, he shall be also marking his presence before ‘the Tribunal’ if the



such petition is filed.

18. In that background, the writ petition stands disposed of allowing the petitioners to approach 'the Tribunal' in next four weeks and if such petition is filed, the delay in filing the petition has to be ignored by allowing the limitation petition taking into account the fact that writ petition was pending before this Court since the year 2017.

19. The writ petition stands disposed of with the aforesaid observation. The interim order gets merged with the final order.

(Rajiv Roy, J)

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