IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4865 of 2016

CNR No. BRHC010429622016

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1. Aditya Kumar Singh son of Sri Prashant Kumar Singh, resident of Village- Rakia, Police Station-Bihra, District- Saharsa, (Bihar) and also residing at Village- Tabhaghat, P.S.-Jasidih, District Deoghar, (Jharkhand).
2. Prashant Kumar Singh, son of Late Tarkeshwar Prasad Singh, resident of Village- Rakia, Police Station-Bihra, District- Saharsa, (Bihar) and also residing at Village- Tabhaghat, P.S.-Jasidih, District Deoghar, (Jharkhand).

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Building Construction, Bihar, Patna.
2. The Principal Secretary, Department of Building Construction, Bihar, Patna.
3. The Executive Engineer, Department of Building Construction, Patna Division, Bihar, Patna.
4. District Magistrate, Patna
5. Estate Officer, Bhawan Nirman Vibhag, Vishwasaraiva Bhawan, Bailey Road, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kishor Verma, Adv. Mr. Ayush , Adv. Mr. Ashok Kr. Sinha No. 2 Mr. Anjani Kumar, Adv. Mr. Ravi Raj, Adv.
For the Respondent/s	:	Mr.Sanjeev Kumar Mishra, GP 21 Mr. Binay Kumar, AC to GP 21

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CORAM: HONOURABLE MR. JUSTICE RAJ KUMAR

C.A.V JUDGMENT

Date : 27-10-2026

Heard learned counsel for the petitioners, Shri Jitendra Kishor Verma, as well as learned counsel appearing on behalf of the State.

RELIEFS

2. The petitioners have preferred the present writ application, bearing CWJC No. 4865 of 2016, primarily seeking a writ of certiorari for quashing the letter dated 11.02.2013 and

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letter dated 25.06.2015 issued by PWD Building Constructions Department, Patna, whereby the lease executed in favour of the original lessees was proposed to be cancelled on the ground of non-payment of lease rent after 1992-1993. The petitioners further sought a writ of mandamus directing the respondent authorities to mutate the 18 dhurs of leasehold land in their favour and to execute a renewal of the lease deed for a further period of 30 years, acting upon the renewal application submitted on 24.01.2014 on the same terms and conditions as the original deed dated 30.03.1987.

FACTS

3. The factual matrix giving rise to the present dispute traces back to 25.02.1956, when land measuring 5 Kathas and 15 Dhurs, designated as Holding No. 252, was originally leased out in favour of Dr. T. N. Banerjee. Subsequently, in the year 1976, a family arrangement was arrived at, whereby the said leasehold property was partitioned into three shares. Pursuant to the said arrangement, an area of 1 Katha and 8 Dhurs fell jointly to the share of the nephews of Dr. T. N. Banerjee, namely Hemant Banerjee and Basant Banerjee, culminating in the creation and carving out of a new holding designated as Holding No. 252A.

4. Holding No. 252A underwent a further partition in the

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year 1980. Through this partition, the eastern part comprising 18 dhurs fell to the share of Hemant Kumar, while the western part comprising 10 dhurs fell to the share of Basant Kumar Banerjee, whose son is Subir Kumar Banerjee. On 06.09.1986, the Government of Bihar granted permission to renew the original 1956 lease deed for a subsequent period of 30 years, effective from 24.02.1986 to 24.02.2016. The relevant letter No. 5645 is marked as ***Annexure -1*** to the writ application. Pursuant to this, on 30.03.1987, the Executive Engineer, Patna, executed a lease deed jointly in favour of Hemant Banerjee and Subir Banerjee for the 1 Katha and 8 dhurs of land at an annual rent of Rs. 22 for a 30-year term.

5. On 08.06.1988, Hemant Kumar sought permission from the authorities to transfer his leasehold rights of 18 dhurs in favour of grandfather of petitioner no.1, Tarkeshwar Prasad, which was duly granted. The Executive Engineer took cognizance of this transfer request, recording it on dairy dated 11.07.1988. The relevant document is marked as ***Annexure-3*** to the writ application**.** The receipt was issued in favour of Tarkeshwar Prasad for the joint lease rent for the years 1987 and 1988, along with a 25% of the yearly rent required to be deposited prior to the transfer of the leasehold rights.

6. Following the requisite permissions, Hemant Kumar

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executed a transfer deed on 20.07.1988. This deed jointly transferred his leasehold land of 18 Dhurs in favour of Tarkeshwar Prasad and his grandson, petitioner no.1. The relevant document is marked as ***Annexure-5*** to the writ application**.** Information regarding this transfer was communicated to the Executive Engineer on 06.11.1990, whereupon a copy of the conveyance deed was requested. Tarkeshwar Prasad furnished the requested copy along with the permission letter on 03.06.1995.

7. The record reveals that between 1988 and 2013, Tarkeshwar Prasad submitted repeated representations before the Executive Engineer seeking execution of the lease deed and mutation of the subject 18 Dhurs of leasehold land in his favour. In order to liquidate the outstanding dues, he tendered a Demand Draft dated 03.06.2008 for a sum of Rs. 470/- towards lease rent for the period 1989–1990 to 2008–2009, inclusive of interest at the rate of 10% per annum; receiving no response, he forwarded a subsequent Demand Draft dated 14.10.2008 for Rs. 600/-, requesting return of the earlier draft if the tendered amount was found deficient (brought on record as Annexures 7 and 8). The department retained the Demand Draft for Rs. 600/- and returned the draft of Rs. 470/- under departmental instructions. Thereafter, pursuant to the department’s communication dated

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28.02.2009 and the subsequent requests dated 12.12.2008 and 07.03.2013, a further payment of Rs. 1,360/- was deposited through three bank drafts, demonstrating consistent steps taken on behalf of the petitioners to secure execution of the lease deed and rebutting the allegation of default in payment of rent.

8. Despite retaining the lease rent, the Executive Engineer, on 11.02.2013, issued a letter to the vendor of the petitioners stating that the lease in their favour was being cancelled on the grounds of non-payment of lease rent after the period of 1992-1993.The relevant document is marked as ***Annexure-12*** to the writ application.

9. Tarkeshwar Prasad passed away on 12.09.2013. Following his demise, the petitioners submitted representations dated 24.01.2014 and 01.04.2015 vide ***Annexure 15*** before the respondent authorities, specifically bringing the factum of his death on record along with his death certificate. Notwithstanding the submission of the said death certificate, the respondent authorities proceeded to issue Letter No. 3012 dated 21.07.2014 in the name of the deceased Tarkeshwar Prasad Singh, purportedly conferring leasehold rights on the terms stipulated in the 1987 joint lease deed, which eventually culminated in the issuance of the communication marked as ***Annexure-16***, also

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erroneously issued *vide* the name of the deceased.

10. However, shortly thereafter, Petitioner No. 2 received Letter No. 2931 dated 25.06.2015, issued by Respondent No. 3 (Executive Engineer) marked as ***Annexure-12*** to the writ application. This communication proposed the cancellation of the lease and threatened eviction with the aid of the District Magistrate and police, reasoning that the lease deed contained no provision allowing the leasehold rights to devolve upon a son or grandson for the residual period following the original transferee's demise.

11. It is further the case of the petitioners that they have been subjected to discriminatory treatment by Respondent No. 3. It is stated that while the formal execution of the lease deed in favour of the petitioners remained pending for over 27 years, the respondent authorities granted permission to the joint leaseholder, Subir Banerjee, to construct a multistoried (G+5) building over his respective share of the freehold land and utilize his 10-dhur portion of the leasehold land as a setback and common access area. In support of their claim for the renewal and execution of the lease, the petitioners also rely upon a spot inspection report dated 04.01.1988, prepared by the then Chief Engineer, wherein it was reportedly observed that the 18 dhurs of land in question was of no practical use to the Building

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Construction Department.

12. Aggrieved by the prolonged pendency of their representations, the alleged discriminatory treatment meted out by the respondent authorities, the imminent threat of dispossession, and the issuance of the impugned communications namely, Letter No. 468 dated 11.02.2013 and Memo No. 2931 dated 25.06.2015 (*vide* ***Annexure-12*** Series) proposing cancellation of the lease,the petitioners have invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. By way of the present writ petition, the petitioners primarily prayed for the quashing of the aforesaid impugned communications dated 11.02.2013 and 25.06.2015; a direction commanding the respondent authorities to transfer and renew the leasehold rights in favour of Petitioner No. 1 for a further period of thirty years with effect from 25.02.2016 to 24.02.2046 upon execution and registration of a fresh lease deed, and an appropriate order restraining the respondents from forcefully evicting the petitioners or creating any third-party encumbrance over the subject leasehold premises.

Submissions on Behalf of the Petitioners

13. Learned counsel for the petitioners submitted that the respondent authorities have falsely asserted ignorance regarding

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the death of Tarkeshwar Prasad Singh to explain why the approval for execution was belatedly issued in the name of a dead person. It is contended that Petitioner No. 1 had already apprised the concerned authorities by submitting detailed representations on **24.01.2014** and **01.04.2015**, duly enclosing the death certificate of the deceased. Consequently, the authorities are legally estopped from pleading ignorance of his demise. The relevant document is marked as ***Annexure -15*** series to the writ application

14. Refuting the stand of the State that the lease dated **06.09.1986** does not contain any covenant extending the right of lease to the son or grandson of the deceased original lessee, learned counsel submitted that leasehold interest and the right to seek execution/renewal of a lease constitute heritable property that devolves upon and vests in the legal heirs by operation of law. In support of this contention, reliance was placed on the renewal of lease deed in 1987 part II, clause 2, as reflected in the recitals which clearly recognizes such right of inheritance. The relevant paragraph of lease deed is reproduced hereinbelow:

Note:- I*n the case of succession by inheritance no fee as aforesaid shall*

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be payable, the person succeeding shall apply forthwith to the Executive Engineer, for mutation of names and such application shall bear the court fee stamp prescribed by law.

15. It was further submitted that permission had already been accorded by the authorities in favour of the deceased Tarkeshwar Prasad Singh *vide* permission letter No. 155 (Memo No.155) dated 08.06.1988, which explicitly stipulated the grant for the remainder of the lease period on the self-same terms and conditions. The relevant document is marked as ***Annexure -3*** to this writ application.

16. It was further submitted that respondent no.3 has permitted Subir Banerjee, the joint leaseholder under the same lease deed, to construct a G+5 multistoried building on his 10 dhurs , while arbitrarily denying the petitioners even a lease deed which is clear case of discrimination.

17. Learned counsel next submitted that the parent lease executed in favour of Hemant Kumar and Subir Banerjee, as well as the lease in question, contained a specific clause providing for renewal. In this backdrop, placing reliance upon

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the representation dated 01.04.2015 (*vide* ***Annexure-15*** Series**),** it was prayed that the respondent authorities be directed to execute a fresh lease deed in favour of the petitioner for a further term of 30 years, running from 25.02.2016 to 24.02.2046.

Judgement relied upon by the petitioners

18. Learned counsel for petitioners have placed reliance upon the judgement of this court in ***Parvinder Singh v. Renu Gautam*****, (2004) 4 SCC 794,** and referred to paragraph 6 of the judgement which is reproduced hereinbelow:

> *6. Tenancy is a heritable right unless a legal bar operating against heritability is shown to exist. Thus, the one who inherits tenancy rights also inherits the obligations incurred by the deceased tenant along with the rights which he had. It is difficult to accept a proposition that on death of the tenant his heirs inherit only rights and not obligations. If that be so, then the heirs would not be liable to pay any arrears of rent which were not paid by the deceased tenant.*

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19. Learned counsel for petitioners have further placed reliance upon the judgement of this court in ***H.C. Pandey v. G.C. Paul*, (1989) 3 SCC 77,** and referred to paragraph 4 of the judgement which is reproduced hereinbelow:

> ***4.*** *It is now well settled that on the death of the original tenant, subject to any provision to the contrary either negativing or limiting the succession, the tenancy rights devolve on the heirs of the deceased tenant. The incidence of the tenancy are the same as those enjoyed by the original tenant. It is a single tenancy which devolves on the heirs. There is no division of the premises or of the rent payable therefor. That is the position as between the landlord and the heirs of the deceased tenant. In other words, the heirs succeed to the tenancy as joint tenants. In the present case it appears that the respondent acted on behalf of the tenants, that he paid rent on behalf of all and he accepted notice also on behalf of all. In the circumstances, the notice served on the respondent was*

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> *sufficient. It seems to us that the view taken in* ***Ramesh Chand Bose [AIR 1977 All 38: 1976 AWC 301: 1976 Ren CJ 380: (1976) 2 ALR 711]*** *is erroneous where the High Court lays down that the heirs of the deceased tenant succeed as tenants in common. In our opinion, the notice under Section 106 of the Transfer of Property Act served by the appellant on the respondent is a valid notice and therefore the suit must succeed.*

20. Learned counsel for petitioners also placed reliance upon the judgement of this court in ***Damadilal v. Parashram,*** **(1976) 4 SCC 855,** and referred to paragraph 11 of the judgement which is reproduced hereinbelow:

> ***11.*** *We find it difficult to appreciate how in this country we can proceed on the basis that a tenant whose contractual tenancy has determined but who is protected against eviction by the statute, has no right of property but only a personal right to remain in occupation, without ascertaining what his*

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rights are under the statute. The concept of a statutory tenant having no estate or property in the premises which he occupies is derived from the provisions of the English Rent Acts. But it is not clear how it can be assumed that the position is the same in this country without any reference to the provisions of the relevant statute. Tenancy has its origin in contract. There is no dispute that a contractual tenant has an estate or property in the subject-matter of the tenancy, and heritability is an incident of the tenancy. It cannot be assumed, however, that with the determination of the tenancy the estate must necessarily disappear and the statute can only preserve his status of irremovability and not the estate he had in the premises in his occupation. It is not possible to claim that the "sanctity" of contract cannot be touched by legislation. It is therefore necessary to examine the provisions of the Madhya Pradesh Accommodation Control Act, 1961

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to find out whether the respondents' predecessors-in-interest retained a heritable interest in the disputed premises even after the termination of their tenancy.

Submission on behalf of respondent no.3 (The Executive Engineer, Department of Building Constructions, Patna Division, Bihar)

21. On the contrary, learned counsel appearing for the State submitted that the grandfather of Petitioner No.1 died on **12.09.2013**, and during his lifetime, no lease was ever registered or renewed in his favour. It was contended that since the primary tenure originating from Hemant Kumar Banerjee lapsed in the year 2016, no subsisting right survives, and there is no occasion or statutory obligation for the authorities to renew or execute a lease in favour of Petitioner No. 1.

22. Learned State counsel further submitted that the demise of Tarkeshwar Prasad Singh was never formally communicated to the competent authority through proper channels. Consequently, the approval order **(*vide Annexure-16*)** came to be issued in the name of the deceased purely on account of *bona fide* ignorance and lack of notice on part of the

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department.

23. It was lastly contended that because the lease deed was never registered during the lifetime of the deceased original applicant, no legally enforceable or heritable leasehold rights accrued to or devolved upon Petitioner No. 1. Therefore, Petitioner No. 1 lacks *locus standi* to maintain the present claim or seek a writ of mandamus for execution or renewal of a fresh lease deed.

Conclusion

24. Having perused the materials on record, the rival contentions advanced on behalf of the parties, and the pleadings therein, what emerges is that a deed was initially executed in favour of Hemant and Subir by respondent no.3 on 30.03.1987, which was duly approved and accordingly registered.

25. In a similar manner, another deed came to be executed by Hemant kumar in favour of Tarkeshwar Prasad, grandfather of Petitioner No. 1 (who was also made a co-lessee) on 20.07.1988, upon obtaining requisite permission from the concerned authorities.

26. Accordingly, the rent in question was duly paid by

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Tarkeshwar Prasad and Petitioner No. 1 as co-lessees; however, no approval was accorded by the concerned authorities for registering the deed. In the interregnum, Tarkeshwar Prasad passed away, and Petitioner No. 1 submitted a representation before the authorities seeking grant of approval to execute the lease deed. This representation was never acted upon by the authorities.

27. On 11.02.2013 notice was issued by the authorities to Tarkeshwar Prasad, grandfather of Petitioner No. 1, calling upon him to deposit rent under the threat of lease cancellation. These directions were duly complied with. Appropriate steps were taken, and up-to-date payments till 02.03.2013 were cleared; thus, no arrears of rent remained due or payable either by Tarkeshwar Prasad or by the co-lessee, Petitioner No. 1. Even though the lease deed was executed in the year 1986 for a period of 30 years, the matter was kept pending without any justifiable reason at the behest of the authorities.

28. Following the demise of Tarkeshwar Prasad on 12.09.2013, the petitioners preferred an application for renewal before the concerned authorities on 24.01.2014 (*vide* ***Annexure-15***), formally bringing the factum of his death on record by

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enclosing his death certificate. Incongruously, seven months after receiving the said representation, Respondent No. 3 issued Letter No. 3012 dated 21.07.2014 in favour of the deceased Tarkeshwar Prasad, according permission for the transfer of leasehold rights and interest in the 18 Dhurs of land on the same terms and conditions as contained in the joint lease deed dated 30.03.1987.

29. The State completely failed to appreciate that Petitioner No. 1, being the legal heir of Tarkeshwar Prasad, possessed heritable rights that could not be extinguished upon the death of the original lessee. Having stepped into the shoes of the original lessee, even if the approval order issued in favour of the deceased Tarkeshwar Prasad is treated as a nullity *qua* a dead person, it remained valid and operative with respect to Petitioner No. 1. Petitioner No. 1 was not only a legal heir but also a recognized co-lessee possessing equal rights; consequently, the lease continued to remain operative until 2016, when upon the completion of 30 years, the authorities arbitrarily allowed it to lapse.

30. Furthermore, subsequent to the demise of Tarkeshwar Prasad and despite the approval granted in 2014 for transfer of

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leasehold right, no notice was issued to the petitioner calling upon him to renew and execute a fresh lease deed in terms of Part II , Clause 2 of the original lease deed.

31. In this backdrop, learned counsel for the petitioner vehemently contended that Petitioner No. 1 has an indefeasible heritable right upon the demise of his grandfather, the original lessee Tarkeshwar Prasad, and as such, their case is squarely governed by clause of the lease deed.

32. The contention of the State that upon the death of the original lessee Tarkeshwar Prasad, the petitioner had no heritable rights cannot be sustained, particularly in view of the fact that the petitioner is a co-lessee.

33. *In,* ***Union of India v. N. Murugesan***, (2022) 2 SCC 25**,** Hon'ble Apex Court held that, the doctrine of approbate and reprobate squarely applies against the State. Having accepted the rent and granted approval, the State cannot now turn around and contend that no heritable rights exist under Part II, Clause 2 of the lease deed date 30.03.1987.

34. In **Kusheshwar Prasad Singh v. State of Bihar, (2007) 11 SCC 447**, the Supreme Court clearly laid down the

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rule that if a legal duty or obligation is cast upon a party and they fail to perform it, they cannot be allowed to take benefit of the situation created by their own fault. The Court based this on the well-settled legal maxim ***commodum ex injuria sua nemo habere debet,*** which simply means that no party can take undue advantage of their own wrong.

35. Applying this settled law to the present case, the State authorities themselves failed in their duty by delaying the execution of the lease deed for decades. They cannot now be permitted to use their own delay and inaction as a weapon to cancel the lease and deny the lawful rights of the petitioners.

36. Therefore, after granting the requisite approval, the State failed to appreciate that the said approval operated to the benefit of the co-lessee and legal heir of Tarkeshwar Prasad, who had effectively stepped into the shoes of the original lessee. When the Government accorded approval in 1988 in favour of Tarkeshwar Prasad and the co-lessee, it implicitly accepted them as its tenants and recognized the legal rights of the grandson under the guardianship of his father (Petitioner No. 2). As a corollary, the assignment *vide* letter dated 08.06.1988 became legally valid and continued in force until 24.02.2016.

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37. The record reveals that the respondent authorities issued the impugned letters dated 11.02.2013 and 25.06.2015, proposing to cancel the lease deed. The proposed cancellation was premised on two distinct grounds: firstly, the alleged non-payment of lease rent, which was paid and also representation was made to respondent no.3 explaining payment of rent with calculation chart for period 1993-1994 to 24.02.2016 was duly made to Respondent no.3, ***vide*** **Annexure -13**. Secondly, the contention that no leasehold rights devolve upon the son or grandson under the terms of the original lease deed was wholly misconceived. These communications have understandably created a reasonable apprehension in the minds of the petitioners that if these letters are left outstanding, they will cause serious injury to their settled rights and lead to arbitrary eviction.

38. In this context, the underlying equitable principle of Section 31(1) of the Specific Relief Act, 1963 becomes highly relevant. The legislative intent of this provision is clear: it empowers any person against whom a written instrument is void or voidable to seek its cancellation, provided they have a reasonable apprehension that the continued existence of such an instrument will cause them serious injury. Applying this principle to the present facts, since the impugned cancellation

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letters are legally unsustainable and pose a direct threat to the recognized, inheritable co-lessee rights of the petitioners, this Court is fully empowered to adjudge such communications invalid and order their quashing to prevent any grave miscarriage of justice. The section 31(1) of the Specific relief act is reproduced hereinbelow:

> 1) *Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.*

39. In view of the admitted facts, the impugned letter dated 11.02.2013 has become infructuous following the demise of Tarkeshwar Prasad, requiring no formal order of quashing from this Court. However, the subsequent communication dated 25.06.2015 continues to hold the field. Therefore, the challenge to this communication warrants active adjudication, especially given the petitioners' grievance that they have been wrongfully denied their heritable rights in terms of Clause 2, Part II of the

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lease deed dated 30.03.1987.

40. In ***Suresh Kumar Kohli v. Rakesh Jain*, (2018) 6 SCC 708**, the Hon'ble Supreme Court clearly explained that when a person holds a specific and separate share in a leasehold property, their rights do not simply end or pass to the surviving co-owners upon their death. Instead, their specific share legally and safely passes on to their own legal heirs. ***Applying this binding judgment to the present case, the lease right of Late Tarkeshwar Prasad over the 18 dhurs of land is unquestionably a heritable right. Since there is no statutory or contractual condition barring this, his rights naturally and legally devolve upon his legal heirs***. Furthermore, the record reveals that the other legal heirs of the deceased have explicitly relinquished their respective rights and interests in the said property in favour of the grandsons, namely Siddharth Kumar Singh and Aditya Kumar Singh (Petitioner No. 1), as evidenced by Annexure-18. Therefore, the State's argument that the grandson cannot hold or inherit the lease rights is legally incorrect and cannot be accepted.

41. Moreover, the conduct of the authorities has been thoroughly callous and attended with mala fides. No steps were

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taken by them since 1988, and it was only after the demise of Tarkeshwar Prasad in 2013 that they belatedly proceeded to grant approval in his favour. The authorities cannot plead ignorance of his death, as the petitioner had already submitted a representation enclosing the death certificate prior to the issuance of the approval.

42. In the opinion of this Court, such action on the part of the State authorities is manifestly arbitrary, unreasonable, and in complete violation of the lawful rights of the petitioners.

43. Thus, this Court holds that Petitioner No. 1 not only possessed an inheritable right in terms of Part II, Clause 2 of the original sale deed of 1987, but was simultaneously vested with the status of a co-lessee. This right was explicitly recognized by the State firstly, by granting permission in the year 1988, and secondly, vide the communication dated 21.07.2014 ***(Annexure-16),*** which was issued even after the demise of his grandfather.

44. The respondent authorities completely lost sight of the fact that while an approval granted in the name of a deceased person may be a nullity in the eyes of law, such an anomaly does not extinguish or prejudice the independent rights of Petitioner No. 1. Being a co-lessee possessed of heritable rights, Petitioner

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No. 1 had legally stepped into the shoes of the original lessee. Furthermore, applying the doctrine of approbate and reprobate, the State cannot now be permitted to take a contradictory stand to deny him his rightful claims. Therefore, the authorities had no justifiable occasion or legal basis to refuse the execution of a fresh lease deed in favour of Petitioner No. 1 on the self-same terms and conditions as the original lease deed of 1987. This is especially true given that Respondent No. 3 had already granted approval for the transfer in favour of the deceased on identical terms *vide* Letter dated 21.07.2014 ***(Annexure-16).***

45. What has to be considered in this matter is that the authorities kept the execution of the lease on hold for almost 27 years, thereby depriving the deceased as well as the petitioner from proceeding with the execution of the deed without any rhyme or reason. The fact that the authorities ultimately granted approval for transfer of leasehold right vide ***Annexure-16*** in favour of the deceased automatically accrued to the benefit of the co-lessee, Petitioner No. 1. Thus, issuing the impugned notice after the death of the deceased, and proposing cancellation on the misconceived ground that no inheritable rights had accrued in favour of Petitioner No. 1, was entirely arbitrary and untenable, especially in light of Section 45 of the Transfer of

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Property Act, 1882.

46. The stand of the authorities that no inheritable right existed under the original deed stands completely demolished by Clause 2, Part II of the renewed lease of 1986. This clause categorically mentioned that no fee would be levied for claims by inheritance, cementing the position that Petitioner No. 2 (father of Tarkeshwar Prasad) was a Class-I legal heir, and Petitioner No. 1 (being the grandson) was another rightful legal heir as well as a co-lessee.

47. Hence, the respondent authorities are legally bound to act upon and comply with their own communication issued vide Annexure-16, wherein they had, in unequivocal terms, granted approval for the transfer in favour of the deceased, Tarkeshwar Prasad. Consequently, this right legally extended to Petitioner No. 1, who was not merely a co-lessee but also a co-owner. However, the said transfer could not be formally executed solely on account of the unfortunate demise of Tarkeshwar Prasad.

48. A citizen cannot be arbitrarily deprived of their property, which enjoys constitutional protection under Article 300A of the Constitution of India. In the present case, the lawful enjoyment of the property has been impeded by the authorities

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on account of their callous, arbitrary, discriminatory, and *mala fide* actions.

49. Thus, the transfer dated 20.07.1988 was not an unauthorized transaction; it was followed by requisite permission from competent authorities and the continuous payment of rent. Yet, the execution never became a reality, and the belated objection regarding inheritance was completely inconsistent with the lease clauses. The public authorities acted arbitrarily to the legal framework and cannot now be permitted to saddle their administrative failures upon the Petitioner No. 1, who, by virtue of transfer, inheritance, and his status as a co-lessee, acquired a vested right that had to be honoured by granting approval for execution.

50. In light of the aforesaid discussions and taking into consideration the entire materials available on record, the impugned letter dated 25.06.2015 **(*vide* Annexure-12)** is hereby quashed, specifically to the extent of the denial of the heritable rights of Petitioner No. 1 by the respondent authorities.

51. Accordingly, in terms of relief sought in para 3(ii) of this writ petition, this Court directs the respondent authorities to consider and take a decision regarding execution of fresh lease

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deed in favour of Petitioner No.1, strictly in accordance with the terms and conditions applicable to the original lease, within a period of four months from the date of receipt or production of a copy of this order and till then the possession of the petitioners shall not be disturbed.

52. When the authorities proceed to decide upon the execution and of new lease it shall duly consider:

i Original lease terms and condition dated 30.03.1987

ii Transfer permission dated 08.06.1988

iii Transfer deed dated 20.07.1988

iv The inheritance clause in the deed dated 30.03.1987

v Status of the Petitioner no. 1 as a legal heir and a co-lessee

vi The absence of any rent dues

vii The unwarranted and prolonged delay in approving the execution of the deed.

viii The final approval granted ***vide Annexure -16*** dated 21.07.2014.

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The respondent authorities are hereby directed to consider the petitioner's claim for the lease in light of the aforesaid observations and pass a reasoned and speaking order, which shall be duly communicated to Petitioner No. 1. Considering that the matter has remained pending for more than a decade, the said exercise shall be concluded expeditiously, preferably within the time stipulated above from the date of receipt of a copy of this order, with Petitioner No. 1 rendering all necessary cooperation and submitting further documentation as may be requisitioned. In the event the authorities fail to conclude the proceedings within the stipulated timeframe, the petitioner shall be at liberty to approach this Court again for the redressal of his grievances.

53. In view of the discussions/observations made above writ petition stands allowed.

54. Pending Interlocutory Applications (I.A.s), if any, also stand disposed of accordingly.

(Raj Kumar, J)

ashutosh/-

AFR/NAFR	A.F.R
CAV DATE	05.10.2026
Uploading Date	27.10.2026
Transmission Date	27.10.2026

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