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Bharat Chouhan and Others Vs The State of Bihar and Others

LPA No. 871 of 2008

Court: Patna High Court

Date of Decision: Nov. 11, 2008

Acts Referred:
Bihar Tenancy Act, 1885 â€" Section 48D

Citation: (2009) 1 PLJR 393

Hon'ble Judges: R.M. Lodha, C.J; Kishore K. Mandal, J

Bench: Division Bench

Advocate: P.K. Jaipuriyar and Anshuman Jaipuriyar, for the Appellant; Dhurendra Kumar for the state, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. In the matter of acquisition of raiyati rights by occupancy, determination has to be made by Circle Officer. Section 48D of the Bihar Tenancy

Act, 1885 reads thus:-

48D. Acquisition of raiyati right by occupancy under-raiyat.-(1) An occupancy under-raiyat shall if he makes an application in this behalf in the

prescribed manner, be entitled to acquire the right of a raiyat subject to the payment to be made as may be prescribed by the State Government

and the right of the landholder in such land shall extinguish:

Provided that the land on which he acquires such right alongwith other land held by him anywhere in the State does not exceed the area he may

hold under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962).

(2) The remaining area, if any, in which the under-raiyat does not acquire the right of a raiyat shall continue to be held by the raiyat under whom the

untier-raiyat held the land.

(3) The landowner in respect of whose land the under-raiyat acquires the right of a raiyat under sub-section (1) shall be paid as compensation an

amount equivalent to twenty four times the rent of the holding in the manner prescribed in this behalf.

2. The forum created u/s 48D is alone competent to declare the status of a person as an occupancy under-raiyat and it cannot be decided in a suit.

In the backdrop of this legal position, right of the present respondent No. 4 (original writ petitioner) to lead evidence in support of his claim before

the Circle Officer was a valuable right. It is true that notice of the proceedings u/s 48D, initiated at the instance of the present appellants, was

served upon the present respondent No. 4 and he did file his written objections but there is nothing on record that he was called upon to examine

the witnesses in support of his claim or file his affidavit. Pertinently, the present appellants in support of their claim did examine the witnesses but

opportunity seems to have been given to the respondent No. 4 to cross-examine the witnesses examined by the appellants in support of their claim.

In this backdrop, the order passed by the single Judge seems to us to be eminently in the interest of justice justifying no interference in appeal.

Letters Patent Appeal does not deserve to be admitted. It is dismissed in limine.