

(2009) 08 PAT CK 0021
In the Patna High Court

Bara Bazar Hat Vyavasayik

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-08-2009

Acts Referred:

Citation : (2009) 08 PAT CK 0021

Hon'ble Judges : Samarendra Pratap Singh, J

Bench : Single Bench

Judgement

Samarendra Pratap Singh, J.—The petitioners are aggrieved by Letter No. 295 dated 26.9.2007 contained in Annexure-5 whereby they have been directed to make an agreement for payment of higher rate.

2. The case of the petitioners is that the authority would charge only ground rent and not for the structure. It is further pointed out that the Hats and Bazar which were earlier settled by the Revenue Department, has now been transferred to the Marketing Board.

3. Counsel for the petitioner has drawn the attention of this Court to Letter No. 247 dated 24.2.1981 to show that the Finance Department directed to collect the ground rent on old rate. It is further submitted that this Court in C.W.J.C. No. 5675 of 2007 observed that rent could be charged for land only.

4. A counter affidavit has been filed on behalf of respondent No. 6.

5. He has drawn the attention of this Court to decree in Eviction Suit No. 14 to 23 of 1992 in respect of the premises in question. It is submitted that the suit was decreed in his favour. The issue travelled to this Court in Second Appeal No. 226/04 which was filed by one Md. Halim Khan.

6. This Court in last but one paragraph of the order dated 16.5.2008 has held that both the learned courts below after considering the oral as well as documentary evidence had come to a definite finding that the defendant had paid rent to the plaintiffs till 1986, which is proved by Ext.2 as well as oral

evidence adduced on behalf of the plaintiff. Hence, they are also debarred from challenging the title of the plaintiffs." Respondent No. 10, thus, contended that his title in respect of the land was not interfered by this Court in the aforesaid second appeal. He further made an objection that they are more than 16 to 65 persons with whom the land is settled and the same cannot be resettled.

7. It is submitted that the shop keeper ought to have come individually.

8. Mr. B.K. Singh Chauhan represents respondent No. 4 and 5 and seeks two weeks' time to file counter affidavit.

9. Put up this case after two weeks in the same list.

10. In the meantime, status - quo as of today so far as recovery of the rent at the higher rate is concerned would be maintained.

11. This Court makes it clear that it is in no way interference with the execution case.