

(2022) 12 JH CK 0018

In the Jharkhand High Court

Case No : Letters Patent Appellate No. 199 Of 2019

Pawan Kumar Bhagat And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 16-12-2022

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 4(h)

Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 — Section 35

Citation : (2022) 12 JH CK 0018

Hon'ble Judges : Dr. Ravi Ranjan, CJ; Sujit Narayan Prasad, J

Bench : Division Bench

Advocate : Rajeeva Sharma, Suresh Kumar, Prashant Pallav

Final Decision : Allowed

Judgement

Sujit Narayan Prasad, J

I.A. No.444 of 2021

1. The instant Interlocutory Application filed for condoning the delay of 24 days was allowed on 26.03.2021, but while hearing the matter again on 03.08.2021, this Court recalled the order dated 26.03.2021 so far as it relates to condonation of delay on the ground that the delay was condoned without hearing one of the parties, i.e., 16 Anna raiyats, on whose application the proceeding under Section 4(h) of the Bihar Land Reforms Act, 1950 was initiated.

2. Thereafter, notice was directed to be issued upon 21 newly added 16 Anna raiyats but the notice could not be served upon the newly added respondents on account of non-availability of their address, except respondent No.6(x). The respondent No.6(x) appeared by filing Vakalatnama but no counter affidavit to the instant interlocutory application has been filed on his behalf.

3. In view thereof, I.A. No. 444 of 2021 is allowed and delay of 24 days in preferring the appeal is condoned.

4. The instant appeal, preferred under Clause 10 of the Letters Patent, is directed against the order/judgment dated 28.09.2018 passed by learned Single Judge of this Court in W.P.(C) No.3985 of 2005 whereby and whereunder the writ petition has been disposed of in terms of a direction that since the Government has yet to examine the matter and pass appropriate order, as such, the issue is to be examined about the nature of the land as to whether the tank includes its embankment or not by bringing the aforesaid fact into the notice of the State Government.

5. Brief facts of the case as per the pleadings made in the writ proceeding, which are required to be enumerated, read as under :-

The property involved in this case was under Jamindari of Pakur Raj Estate and Rani Jyotirmoyee Devi. Plot No.1611 comprising total area of 4 Bigha 18 katha 12 dhurs appertaining to Jamabandi No.622 of Mouza Pakur No.128 stands recorded in the last survey settlement records as "Pokhar" (Tank) and the said Raj Estate was entitled to collect rent of the said plot.

It is the further case of the petitioners that large chunk of this area was lying as waste and accordingly the landlady of the Estate decided to settle the property which was put for auction and one Ram Dayal Sao was the highest bidder, and the same was settled on 14.03.1948 in his favour. Thereafter, he paid rent to the Pakur Raj Estate and also to the Government after vesting.

The settlement was bonafide and there was no intention to defeat the provisions of the Bihar Land Reforms Act, 1950 and the settlement was made much prior coming into force of the Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 and accordingly the settlement cannot be questioned after a long period.

This property was shown as settled in favour of Ram Dayal Sao in the returns filed by the ex-landlord and the petitioners are claiming the property by way of succession through Ram Dayal Sao.

It is the further case of the petitioners that the impugned proceedings are also barred by the principles of res-judicata in view of the fact that a similar proceeding was brought against the settlement by the Government in the Court of Sub-Divisional Officer in Revenue Misc. Case No.1 of 1954-55, and the claim of the Government was rejected. Thereafter, this order attained finality and petitioners continued to pay rent till 2003-04. Similar case was brought by the Government in 1966-67 in Pakur before the Circle Officer being Rev. Misc. Case No.106 of 1966-67 and ultimately, the same was dropped vide order 07.11.1966 on the basis of aforesaid order passed in Revenue Misc. Case No.01 of 1954-55.

Thereafter, a proceeding under Section 4 (h) of Bihar Land Reforms Act, 1950 was initiated against the petitioners and a report was prepared by the Circle Officer which was placed before the Deputy Commissioner, basis upon which the

settlement made in favour of the petitioners has been cancelled, which is under challenge in this writ petition.

Further, it is the case of the petitioners that the very initiation of a proceeding under Section 4 (h) of Bihar Land Reforms Act, 1950 was illegal and the proceeding itself was not maintainable, in view of the fact that the same was barred by res judicata.

The respondent State filed counter affidavit inter alia stating therein that the property involved in this case is recorded as "tank" and the tank includes embankment which could not have been settled by the ex-landlord and could not have been auctioned by the ex-landlord. The claim of settlement in this case is an unregistered document and the property involved in this case is recorded as tank in Anabadi Khata and accordingly this tank is a Sairati tank and after vesting it belongs to the Government. Accordingly a proceeding under Section 4 (h) of the aforesaid Act was initiated and the order of settlement has been set-aside and the order regarding cancellation of Jamabandi is a consequential order.

The further ground has been taken that the orders which were earlier passed by Sub-Divisional Officer in Revenue Misc. Case No. 1 of 1954-55 was regarding cancellation of settlement of a portion of plot no. 1611 and in the said proceeding, it was contended that the property is a basauri land. The said proceeding was under the provisions of Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 and it was held that the property involved in this case is not covered under section 35 of the Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949. However, a proceeding under the Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 has got no relation to the proceedings under Section 4 (h) of Bihar Land Reforms Act, 1950 which are involved in this case and the nature of the land under Bihar Land Reforms Act, 1950 is to be governed by its nature which has been recorded in the record of rights.

It has also been stated that in the impugned order, there is a finding that the petitioners were never in possession of this property which was based on the inspection report of the Circle Officer.

The writ petitioners, after the order having been passed by the Deputy Commissioner, Pakur, on 04.04.2005 in R.M.A. Case No.11/2004-05 and order passed by the Special Officer, Pakur Municipality, Pakur contained in Memo No.209 dated 21.04.2005, have sought for a direction for quashing of the aforesaid orders and to restrain the respondents from evicting the writ petitioners and their family from their houses situated on Plot No.1611 of Mouza – Pakur.

The learned Single Judge, after taking into consideration the rival submissions, has refused to interfere with the order, however, while disposing of the writ petition, the consideration has been made that since the proceeding initiated under Section 4(h) of Bihar Land Reforms Act, 1950 only culminates into finality

after affirmation by the Government and, as such, the writ petitioners have been given liberty to raise the issue about the nature of the property to the knowledge of the State Government for its consideration, which is the subject matter of the instant intra-court appeal.

6. Mr. Rajeeva Sharma, learned senior counsel appearing for the writ petitioners/appellants, has submitted that the order passed by the learned Single Judge suffers from patent illegality since even though specific point has been raised about the issue of settlement made in favour of the vendors of the writ petitioners which was cancelled in R.M.P. Case No.26 of 1993-94 and R.M.P. Case No. 31 of 1993-94 by the Deputy Collector, Sahibganj but the aforesaid order cancelling settlement was quashed by Patna High Court vide order passed in C.W.J.C. No.12537 of 1993.

Thereafter, the proceeding has been initiated under Section 4(h) of Bihar Land Reforms Act, 1950 (hereinafter to be referred to as the Act, 1950), which is after lapse of about 50 years from the date of passing of order in Revenue Misc. Case No.01/1954-55.

It has been submitted that once the settlement which was cancelled by the Deputy Collector, Sahibganj by an order passed in R.M.P. Case No.26 of 1993-94 and 31 of 1993-94, has been quashed and set aside by the Patna High Court in an order passed in C.W.J.C. No.12537 of 1993 and the jamabandi since is running in the name of the writ petitioners, the same cannot be cancelled after such a long delay in exercise of power conferred under Section 4(h) of the Act, 1950.

It has been contended that the learned Single Judge has not considered the order passed by the Patna High Court in C.W.J.C. No.12537 of 1993 by which settlement made in favour of the vendors of the writ petitioners from whom the writ petitioners have purchased the land in question has been revived, there was no reason to initiate a fresh proceeding under Section 4(h) of the Act, 1950 that too, after lapse of 50 years, therefore, non-consideration of the aforesaid part by the learned Single Judge requires consideration by this Court by showing interference with the impugned order passed by the learned Single Judge.

It has further been contended that the proceeding under Section 4(h) of the Act, 1950 has been initiated by the so called 16 Anna raiyats but as would appear from the complaint made in that regard that there is only 21 signatories having no details thereof as to whether notices have been served upon the so called 16 Anna raiyats or not?

Therefore, submission has been made that a frivolous proceeding has been initiated in the name of 16 Anna raiyats basis upon which the orders have been passed by the authorities cancelling the settlement as also jamabandi.

It has been contended that the proceeding initiated under Section 4(h) of the Act, 1950 for cancelling of settlement and the Jamabandi cannot be construed to

be proper exercise of power under Section 4(h) of the Act, 1950 but the learned Single Judge has not appreciated the aforesaid aspect of the matter and, therefore, the order needs interference.

7. Per contra, Mr. Suresh Kumar, learned S.C.(L&C)-II, appearing for the respondent State of Jharkhand, has defended the order passed by the learned Single Judge taking the ground that the land in question is recorded as tank and the tank includes embankment and it could not have been settled by the ex-landlord and could not have been auctioned by the ex-landlord.

It has been submitted that the claim of settlement in this case is an unregistered document.

It has further been contended that the property involved in this case is recorded as tank in Anabadi khata and accordingly, this tank is a Sairati tank and after vesting it belongs to the Government.

Accordingly, a proceeding under Section 4(h) of the Act, 1950 was initiated and the order of settlement has been set aside and the order regarding cancellation of Jamabandi has been passed which is consequential one.

According to the learned State counsel, the learned Single Judge, after taking into consideration the fact in entirety, as referred in the counter affidavit, has passed order which requires no interference.

8. There is no rebuttal reply on behalf of Respondent No.6(x) who has been represented by Mr. Prashant Pallav, learned counsel.

9. This Court has heard the learned counsel for the parties, perused the documents available on record as also the finding recorded by the learned Single Judge in the impugned order.

10. The issue requires consideration in this case is as to whether the order passed by the Deputy Commissioner, Pakur, in Revenue Misc. Case No.01/1954-55 and order passed by the Special Officer, Pakur Municipality, Pakur\ contained in Memo No.209 dated 21.04.2005 cancelling the settlement and the Jamabandi is considered to be proper order when the cancellation of settlement made in favour of the vendors of the writ petitioners in a proceeding arising out of R.M.P. Case No.26 of 1993-94 and R.M.P. Case No. 31 of 1993-94 has been quashed and set aside by the Division Bench of Patna High Court in C.W.J.C. No.12537 of 1993?

11. Before moving forward for consideration of the aforesaid issue, some necessary fact is relevant to be referred herein, i.e., the land in question was settled in a proceeding initiated on the basis of an application made by the vendors of the writ petitioners submitted on 30.06.1989 for settlement of 3 kathas of land of Plot No.1611, Jamabandi No.622 for the purpose of homestead as he was landless and has no house as also he comes from weaker section of the society being Patwa by caste.

The application was numbered as Settlement Case No.21 of 1989-90. The Circle Officer concerned has called for report from Circle Inspector and Halka Karmchari. The report was submitted on 08.01.1990 vide letter No.32. After this report, a notice was issued to the 16 Anna raiyats and the Mulrayaits of Mouza Pakur. The S.D.O., Pakur, after considering the report, passed an order on 18.05.1990 for settlement of 3 kathas of land of Plot No.1611, Jamabandi No.622 of Mouza Pakur in favour of the vendors of the writ petitioners. Some of the lands of Plot No. 1611 Mouza No.622 was also settled vide order passed in Settlement Case No.224 of 1991. The delivery of possession was given in favour of the vendors of the writ petitioner. But, the settlement so made was cancelled vide decision dated 27.09.1993.

The vendors of the writ petitioners, being aggrieved with the aforesaid action of the Circle Officer, filed writ petition being C.W.J.C. No.12537 of 1993 and the Division Bench of the Patna High Court has passed order quashing the orders cancelling the settlement made in favour of the vendors of the writ petitioners by maintaining the orders of settlement dated 18.05.1990 and 11.02.1992, as would appear from paragraph 26 of the aforesaid judgment reported in 1995 BBCJ 448, which reads as hereunder :-

"26. From the conspectus of the aforesaid discussion the impugned orders (Annexures 20 and 21) are manifestly erroneous. In the result writ petition succeeds and the same is allowed. The impugned orders dated 27.9.1993 passed in R.M.P.Case No.26 of 1993-94 and in R.M.P. Case No.31 of 1993-94 (Annexures 20 and 21) are hereby quashed and the orders of settlement dated the 18th May 1990 and 11th of February, 1992 (Annexures 4 and 8 respectively) are maintained. In the circumstances of the case, however, there shall be no order as to costs."

The petitioners, thereafter, are in peaceful possession of the land but a notice has been issued for initiation of proceeding under Section 4(h) of the Act, 1950 before the Circle Officer, Pakur. Application for initiating proceeding for cancellation of settlement was made by the 16 Anna raiyats. On being noticed, the petitioners appeared and filed their defence by taking the ground that the land in question has well been settled in favour of the vendors of the writ petitioners and thereafter the land was transferred in favour of the writ petitioners and once the settlement has been restored by the order passed by the Division Bench of the Patna High Court in C.W.J.C. No. 12537 of 1993 and the same having attained its finality, the instant application is not maintainable. But the authorities have passed orders on 04.04.2005 in R.M.P. Case No.11/2004-05 and on 21.04.2005 for cancellation of settlement in exercise of power conferred under Section 4(h) of the Act, 1950 followed by cancellation of jamabandi.

12. The statutory mandate as contained under Section 4(h) of the Act, 1950 provides that the Deputy Commissioner can conduct an enquiry if any transfer has been made by the landlord in order to over-reach the object of the Act and if

such transfer has been made on or after 01.01.1946, as would appear from the provision contained under Section 4(h) of the Act, 1950 which reads as hereunder :-

"4(h). The Collector shall have power to make inquiries in respect of any transfer including the settlement or lease of any land comprised in such estate or tenure or the transfer of any kind of interest in any building used primarily as office or cutchery for the collection of rent of such estate or tenure or part thereof, and if he is satisfied that such transfer was made with the object of defeating any provisions of this Act or causing loss to the state or obtaining higher compensation there under the Collector may, after giving reasonable notice to the parties concerned to appear and be heard annul such transfer, dispossess the person claiming under it and take possession of such property on such terms as may appear to the Collector to be fair and equitable."

Admittedly, the Deputy Commissioner has been conferred with the power to conduct an enquiry if there is any step for over-reaching the object of the Act subject to the transfer made on or after 01.01.1946.

Herein, settlement of the land in question has been made after 01.01.1946, i.e., on 18.05.1990 and 11.02.1992, but such settlement has been made in a proceeding initiated by the Circle Officer on an application made by the vendors of the writ petitioners. However, such settlement was cancelled by the Deputy Commissioner on 27.09.1993. The vendors of the writ petitioners, being aggrieved with the same, challenged the said order before the Patna High Court and the Division Bench of the Patna High Court has quashed the cancellation order of settlement, as has been directed to be cancelled by order dated 27.09.1993, by reviving the settlement made in favour of the vendors vide settlement dated 18.05.1990 and 11.02.1992.

The admitted position herein is that the order passed by the Division Bench of the Patna High Court in C.W.J.C. No.12537 of 1993 has not been challenged by the State functionaries. But, after lapse of a decade from the order passed by the Patna High Court dated 01.07.1994, a proceeding has been initiated against the writ petitioners on a complaint made by the 16 Anna raiyats.

The aforesaid proceeding initiated under Section 4(h) of the Act, 1950 has culminated in taking decision against the writ petitioners for cancellation of settlement followed by cancellation of Jamabandi.

13. It is, thus, evident that although the settlement of the land was made after 01.01.1946 but that alone cannot confer power upon the Deputy Commissioner to conduct an enquiry in exercise of power conferred to him under Section 4(h) of the Act, 1950, since settlement of land in favour of the vendors of the writ petitioners has already attained its finality by the order passed by the Division Bench of the Patna High Court.

14. The question herein is that when the Division Bench of the Patna High Court

has decided the issue holding the settlement made in favour of the vendors of the writ petitioners to be proper, then where is the jurisdiction lies to the Deputy Commissioner of the concerned district to initiate proceeding afresh under Section 4(h) of the Act, 1950 that too without questioning the order passed by the Division Bench of the Patna High Court.

This Court, in that view of the matter, is of the view that the very initiation of the proceeding under Section 4(h) of the Act, 1950 by the Deputy Commissioner is an arbitrary exercise and is nothing but sitting over upon the order passed by the Patna High Court without questioning the same before the higher forum.

15. This Court, in course of hearing, had directed the State authorities to produce the records of settlement made in the year 1948 as also directed to file affidavit as to which year Jamabandi No.365 was created in favour of the appellants and/or in which year, as per the claim of the appellants, names of the writ petitioners or their ancestors were entered in Register-II first time.

The State was also directed as to what step was immediately taken by it after the order dated 18.04.1955 in which a petition of State of Bihar through Circle Officer, Pakur was dismissed on several grounds including one that the settled land is a Basauri land and not a tank and also as to what was done after 07.11.1966 when a Revenue Misc. Case No.106 of 1966-67, in which the proceedings by the State of Bihar through the Circle Officer, Pakur, was dropped vide order dated 07.11.1966, as would appear from Annexure-4 appended to the paper book.

This Court had also directed to bring on record the order passed in C.W.J.C. No.12537 of 1993, for ready reference order dated 26.03.2021 is being referred herein, which reads as hereunder :-

"Heard the parties.

Let the appellants bring on record the documents of settlement of the year 1948.

Let the State file an affidavit stating as to in which year Jamabandi No.365 was created in favour of the appellants and/or in which year, as per the claim of the appellants, names of the writ petitioners or their ancestors were entered in Register-II first time.

Let the respondents-State also state as to what step was immediately taken by it after the order dated 18.04.1955 in which a petition of State of Bihar through Circle Officer, Pakur was dismissed on several grounds including one that the settled land ia a Bansauri land and not a tank and also as to what was done after 07.11.1966 when a Revenue Misc. Case No.106 of 1966-67, in which the proceedings through by the State of Bihar through the Circle Officer, Pakur, was dropped vide order dated 07.11.1966 (Annexure 4).

So, in a nut-shell, let the State come up with the details as to what was done by it during the interregnum starting from 18.04.1955 till the year 2004-05 when

this proceedings under Section 4(h) of the Act was initiated because it was well-known to the State that such settlement was made and it appears from the order of the S.D.O., Pakur, as contained in Annexures 3 and 4, that the State Government's endeavours to dislodge the writ petitioners ended in dropping of the proceedings.

Let a copy of the order passed in C.W.J.C. No.12537/1993 which has been discussed in the impugned order passed by the Deputy Commissioner, Pakur, be brought on record by the State.

Put up this case on 23.04.2021."

Affidavit in terms of the aforesaid order was filed and from its perusal it is evident that no specific reply has been filed so far as it relates to the query made vide order dated 26.03.2021.

The matter was again taken up on 03.08.2021 and a question was posed that who are the 16 Anna raiyats on whose behalf the proceeding under Section 4(h) of the Act, 1950 was initiated, since the representation filed on behalf of the 16 Anna raiyats dated 12.03.2004 was signed by only 21 persons in which their names have been described but their proper addresses are not available and, as such, how and under which authority without ascertaining the identity of those persons the proceeding has been initiated. The 16 Anna raiyats have been noticed but as would appear from the office note dated 24.08.2021 that the notice was not served and, as such, the State was directed to serve notice upon the concerned 16 Anna raiyats. But the notices were not effected.

In that pretext, the State was directed to file an affidavit as to how they are not being able to identify the respondents at whose behest in the garb of 16 Anna raiyats and on the basis of certain signatures without identifying those persons such proceeding was initiated and adverse orders were passed against the writ petitioners.

Affidavit in terms of the order dated 25.08.2021 was filed by the Circle Officer but no reply has been furnished regarding the direction about the identification of the 16 Anna raiyats.

16. The fresh proceeding initiated under Section 4(h) of the Act, 1950 is based upon the complaint made by the 16 Anna raiyats, as being claimed by the State, but when this Court posed a question that who are those 16 Anna raiyats and how their appearance was secured in absence of any address and parentage and only names have been referred in the said complaint, but even in spite of specific direction posing that query to be answered, the State respondents have not filed any affidavit as to how their appearance was secured for ascertaining the very veracity of the complaint.

Since the orders impugned are passed on the basis of the so called complaint made by 16 Anna raiyats but their appearance could not be secured in absence of any address and even the State authorities have failed to provide any address

and further, even the functionaries of the State Government on their own could not be able to serve the notice upon them.

This conduct of the respondents, therefore, according to the considered view of this Court, cannot be said to be proper which led the State authorities to initiate a proceeding under Section 4(h) of the Act, 1950 on the basis of the so called complaint made by the 16 Anna raiyats.

Further, the authorities concerned, while passing the order, have not considered the issue of settlement having been set at rest by the order passed by the Division Bench of the Patna High Court and once the settlement made by the authorities of the State has been restored by the Patna High Court, there was no occasion for the State authorities to initiate a proceeding under Section 4(h) of the Act, 1950.

The issue has been raised that the matter pertaining to the Patna High Court is with respect to the fact that the property has been shown as tank in the Record of Rights and there is reference of embankment of tank in Revenue Misc. Case No.01/1954-55 which led the learned Single Judge to grant liberty to the writ petitioners to raise this issue before the Government since any decision taken under Section 4(h) of the Act, 1950 will attain its finality if confirmed by the Government. But, the State authorities have tried to make out a fresh case by showing the property to be tank as recorded in the Record of Rights considering it to be for the public use while there is reference in the Revenue Misc. Case No.01/1954-55 that the nature of land is of embankment of tank, which according to our considered view, does not make any difference since the matter of settlement of the land in question made in favour of the vendors of the writ petitioners is required to be seen which was the subject matter of the Revenue Misc. Case No.01/1954-55 and at that time there was no consideration with respect to the nature of land to be tank or embankment.

Since the land has been settled in favour of the vendors of the writ petitioners was finally revived by the order passed by the Patna High Court and, as such, it is not available for the State authorities to take a new ground for cancelling the settlement and the Jamabandi.

17. This Court, having discussed the facts in entirety as above, has gone across the order passed by the learned Single Judge and has found therefrom that the learned Single Judge has agreed with the view raised by the State authorities by giving a finding that the impugned orders which are subject matters of the writ petition were passed on the basis of Record of Rights. The property has been shown as tank while the finding which has been recorded in Revenue Misc. Case No.01/1954-55 wherein it has been held that the property is on the embankment of the tank and not the tank itself and, therefore, the order passed by the authorities in Revenue Misc. Case No.01/1954-55 has been discarded for showing interference with the impugned orders. However, liberty has been given to the writ petitioners to raise the issue before the Government before

confirmation of the decision so taken for cancellation of settlement under Section 4(h) of the Act, 1950. But, while doing so, the learned Single Judge has failed to appreciate the legal position and the order passed by the Patna High Court that once the issue revolves around the same land, then the consideration ought to have been given with respect to the land in question in entirety and not segregating as tank or embankment, rather, the settlement in entirety ought to have been taken into consideration which admittedly as per the order passed by the Patna High Court, the land has been shown to be settled in Plot No.1611.

18. It would be evident from the order passed by the Division Bench of the Patna High Court that the settlement was made in favour of the vendors of the writ petitioners after consideration of the enquiry and after hearing the 16 Anna raiyats and the Mulraiayats of Mouza Pakur but was cancelled and the same has subsequently been revived by the order passed by the Division Bench of the Patna High Court. But, ignoring the same, a fresh proceeding has been initiated under Section 4(h) of the Act, 1950 after accepting the order passed by the Patna High Court but this fact has not been taken into consideration by the learned Single Judge. Further, the learned Single Judge has granted liberty to

the writ petitioners to bring the facts before the Government for its consideration about the nature of the land, but, according to the considered view of this Court, while granting such liberty to the writ petitioners for considering the nature of the land at the end of the Government, cannot be said to be required at all in view of the fact that the issue has already been set at rest by order passed by the Division Bench of Patna High Court in C.W.J.C. No.12537 of 1993 and once there is a decision by the Court of law and the same has been accepted by the State, there is no question of relegating the matter before the Government again for its consideration otherwise the same will amount to according liberty to the State Government to sit as reviewing authority over the decision already taken by the Patna High Court, which cannot be said to be proper and permissible, therefore, according to our considered view, the order passed by the learned Single Judge requires interference.

19. Accordingly, the writ petition stands allowed. In consequence thereof, the order dated 04.04.2005 passed by the Deputy Commissioner, Pakur, in Revenue Misc. Case No.11/2004-05 and order passed by the Special Officer, Pakur Municipality, Pakur contained in Memo No.209 dated 21.04.2005 are quashed and set aside.

20. The settlement so made in favour of the vendors of the writ petitioners in the light of the order passed by the Division Bench of Patna High Court in C.W.J.C. No.12537 of 1993, is restored.

21. Accordingly, the instant appeal stands allowed and disposed of.

22. Pending interlocutory application, if any, also stands disposed of.