

(2007) 12 PAT CK 0067
In the Patna High Court
Case No : CWJC No. 2245 of 2006

Raghubansh Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-12-2007

Acts Referred:

Bihar Tenancy Act, 1885 — Section 23(4)

Citation : (2008) 1 PLJR 278

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Advocate : Jitendra Pd. Singh and Apurva Pragya, for the Appellant; Lalit Kishore, for the Respondent

Final Decision : Allowed

Judgement

Navin Sinha, J.—In this application the petitioner is aggrieved by the order passed in rent fixation case in exercise of power u/s 23(4) of the Bihar Tenancy Act fixing commercial rate of rent for his lands on the ground that agricultural lands were being used for commercial purposes. The issue involved in this writ petition has been subject matter of consideration by a Division Bench of this Court reported in Amar Singh and Others etc. etc. Vs. The State of Bihar and Others etc. etc. and analogous cases. The conclusions noticed at paragraph 42, inter alia, are that Section 23(4) of the Bihar Tenancy Act is bad in law on account of delegation and abdication of legislative function by the legislature apart from other reasons enumerated in Clauses (i) to (iv), (vi) & (vii) of the same paragraph. The Division has circumscribed that the benefit of the aforesaid judgment shall be available to cases pending as on the date of judgment, that is, 30.5.2007.

2. The petitioner, who has clearly approached this Court prior to the aforesaid date, is entitled to the benefit of the said judgment. This writ application is allowed in the same terms and the impugned order fixing commercial rate of rent in respect of his lands are, accordingly, set aside.