



IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1723 of 1997

- 1.1. Sunil kumar Singh Son of late Badri Narayan Singh Resident of Village-Sarwarpur, P.S. Tariyani, District- Sheohar.
- 1.2. Sujit kumar Singh Son of late Badri Narayan Singh Resident of Village-Sarwarpur, P.S. Tariyani, District- Sheohar.
- 1.3. Sudhir Kumar Singh Son of late Badri Narayan Singh Resident of Village-Sarwarpur, P.S. Tariyani, District- Sheohar.
- 2.1. Anil kumar Singh Son of late Rana Kedar Singh Resident of Village-Sarwarpur, P.S. Tariyani, District- Sheohar.
3. Sambhu Prasad Singh Son of Late Parabhu Singh Resident of Village-Sarwarpur, Police Station Tariyani, District-Sheohar (Sitamarhi) At Present Residing at Dumra District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector of the District-Sitamarhi
3. The Additional Collector, Sitamarhi.
4. Sub Divisional Officer, Sitamarhi, Sadar, Sitamarhi
5. Circle Officer, Dumra, Sitamarhi.
- 6.1. Sarat Chandra Verma Son of Late Rama Prasad Verma husband of the respondent no.6 Resident of Village- Dumara Police Station- Dumara, District- Sitamarhi.
- 6.2. Subodh Kumar Verma Son of Late Rama Prasad Verma husband of the respondent no.6 Resident of Village- Dumara Police Station- Dumara, District- Sitamarhi.
- 6.3. Smt. Pratima Devi Wife of Sri Anjani Kumar alias Lal Babu Resident of Village and P.O. Paratapur Police Station- Belsand, District- Sitamarhi.
- 6.4. Smt. Purnima Devi alias Neelam Wife of Shri Laxman Prasad Srivastava Resident of Village and P.O. Harharpur Pirauta Police Station- Baniyapur, Distt- Saran.
- 6.5. Parmila Daughter of Late Rama Prasad Verma Resident of Village- Dumra, Police Station- Dumra, District- Sitamarhi.
- 6.6. Niblu Daughter of Late Rama Prasad Verma Resident of Village- Dumra, Police Station- Dumra, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Udit Narayan Singh, Advocate
	:	Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25
For the Resp. No. 6	:	Mrs. Shama Sinha, Advocate
	:	Mr. Vijayansh Pratap Singh, Advocate
	:	Mr. Surya Prakash, Advocate





CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
CAV JUDGMENT

Date : 02-02-2026

1. The present writ petition has been preferred for:

(i) the issuance of an appropriate writ, order or direction to the respondents to show cause as to why not the order dated 21.01.1997 passed by the respondent no.2 (Annexure 1) as also the order dated 11.12.1980 passed by the respondent no.5 (Annexure-2) be not quashed;

(ii) further writ, order or direction to the respondent no.2 to renew the lease in favour of the petitioners for a further period of 30 years in view of the order dated 30.11.1992 (Annexure-3);

(iii) further restrain the respondent no.6 from taking possession of the disputed house on the basis of the impugned order.

FACTS:

(A) PETITIONER's VERSION:

2. The petitioner's grandfather, **Bhola Singh** got the lease of the Khas Mahal land in the year **1939** for a period of





thirty years. As per the terms and condition of the lease, he/family members are/were entitled for its renewal of 30 years from (the period of the first lease). The case of the petitioners is/are that in view of the terms of lease providing two renewals, the order of the Collector in settling the land with the respondent no.6 by way of lease deed is wholly illegal particularly when the original lessee had applied for its renewal in the year 1976 though after expiry of the first term in the year 1969.

3. The details of the land in question for which the lease deeds were made is/are as under:-

“Khata No. 28, Plot No. 1030, (New Khata No. 833, New Plot No. 2825), (Area 15.5 decimal) situated in Ward no.4, Khasmahal Plot No. G-9, Village and Circle-Dumra, Anchal-Dumra, District-Sitamarhi.”

4. The contention of the petitioners is/are that after the settlement of the leased land in the year 1939, Bhola Singh constructed a residential house where their family members are/were residing, a fact also found true by the Circle Officer in his earlier local inspection. In the revisional survey held in the year **1976** also, the petitioners were found in possession





over the disputed land. Further, at no point of time, either the petitioners or their father agreed to transfer the lease land to the respondent no.6 (now substituted by her heirs).

5. The case further is that so far as the ancestors of the respondents are concerned, late **Rama Prasad Verma** was allowed to live in one portion of the house by the petitioners' grandfather, Bhola Singh because both were friends and late Rama Prasad Verma had no house to live. The petitioners' grandfather was a simple person and late Rama Prasad Verma committed fraud upon him by taking electric connection in his name as also depositing the Municipality tax, again in his name. The contention is that late Rama Prasad Verma created several forged documents in his name having no relevance for the purpose of lease.

6. The case of the petitioner(s) further is/are that as per the lease deed between the State respondents and Bhola Singh, on the expiry of 30 years lease period, the same was to be renewed. Further, there is also the government resolution issued vide **memo no. 575 dated 18.11.1987** that in case of default committed by the lessee, the land can be re-settled after the imposition of some fine.

7. The contention is that on 25.08.1978, the





respondent no.5 sent a notice to the petitioners for renewal of the lease although the petitioners had already filed an application dated **12.02.1976** before the L.R.D.C., Sitamarhi for its renewal (Annexure-9). Further, the petitioners are/were in possession of the land on which erroneously, the claim has been laid by the respondent no.6/heirs.

8. Unfortunately, all these facts were overlooked by the Collector, Sitamarhi vide his order dated **04.11.1993** while interfering with the order passed by the Additional Collector on **30.11.1992**.

9. The petitioners thereafter moved this Court in **CWJC No. 1554 of 1994** which was disposed of on **07.12.1994** by quashing the order dated **04.11.1993** and directing the Collector, Sitamarhi to re-hear the matter.

10. However, instead of appreciating the facts of the case, once again the Collector, Sitamarhi vide an order dated **21.01.1997** rejected the claim of the petitioners forcing them to file the present petition.

11. In support of the case, the petitioners have relied on the order dated **21.12.1994** by the **Division Bench** of **Patna High Court** in **CWJC No. 2671 of 1994** (The Gait Public Library and Institute, Gardanibagh, Patna through





its President vs. The State of Bihar & Ors.) reported in **1995 (1) PLJR 585** with specific reference to paragraphs **23 to 27** which read as follows:

“23. Admittedly, no three months notice has been given to lessee nor any steps have been taken to determine the compensation for the buildings etc. From perusal of the impugned order (Annexure-7) it appears that the government has taken the decision to resume the land on the ground that petitioner is using the land and building for purposes other than for which the land was leased. It is stated apart from running the library the premises is being used for running Sishu Bharti School, ladies training centre, Music training centre etc. The Collector on the basis of decision of the State Government to resume the land has passed the order under Rule 21 of the Bihar Government Estates (Khas Mahal) Manual resuming the land for public purposes. The Collector has not stated in the impugned order regarding the public purpose. Resumption on





the ground of breach of the terms of the tenancy could not be said to be a public purpose as mentioned in the rule.

24. From paragraph 6 of the counter affidavit it appears that the land is being resumed for the purposes of handing over the same to a College. It means land is being resumed for use of persons other than government. In such a situation according to Rule 21 land cannot be resumed and the State government has to acquired the land under the provisions of the Land Acquisition Act. Thus for the aforesaid reasons impugned order suffers from serious legal infirmities and accordingly not sustainable in law.

25. There is another hurdle in the way of the respondents. Rule 22 provides inter alia that when in a lease deed it is provided that, in the event of certain contingencies occurring, the Collector will enter upon and take khas or direct possession of the property, it must be understood that, where the settlement





holder objects possession cannot be taken save under the orders of a competent Civil Court.

26. From the terms of the lease it is clear that there is provision of taking possession on certain contingencies and as such Rule 22 applies. The petitioner has objected to taking of the possession by filing a petition and in that view of the matter the respondent can taken possession under the order of competent Civil Court. They cannot take forcible possession.

27. By the impugned order the State has attempted to take possession of the land in a purported exercise of Rule 21. It has no applicability in the case and as such the impugned order has no sanction in law and has to be quashed. The action of the respondent State and the Collector and his Subordinate officers in taking forcible possession on the basis of the said order is also unauthorised. As stated above, the petitioner is continuing in possession for more them 70 years over the





land and has constructed building and the same is being used as a library and institute and for some other purpose also. Even after the expiry of the lease its possession is juridical one and that can be taken away only by the process known in law. The respondents have no authority in law to resume and take possession of the land by virtue of an order which stated above is nonest in the eye of law. Accordingly, the impugned order is quashed and it is held that the act of the respondents in taking possession of the land in question is unauthorised and arbitrary. In view of such high handed act on the part of the State and its officers this Court with a view to maintain majesty of law has to pass an order for restoration of possession of the petitioner.

12. The further reliance has been placed on another learned Single Judge judgment of Patna High Court in the case of **M/s Hindustan Petroleum Corporation Ltd. and analogous cases vs. The State of Bihar & Ors.** reported in **the 1996 (2) PLJR 621** with reference to paragraph 29 which





read as follows:

“29. From the admitted factual position in this case it cannot be said that the petitioner Company was a trespasser. The petitioner Company came on the plot in question on the basis of a registered lease deed between the parties. Even if it is assumed that the lease between the parties have expired, the petitioner Company cannot be called either a trespasser or an encroacher.

13. Learned counsel for the petitioners submit that the order dated **30.11.1992** (wrongly typed as 31.11.1992) is/was the final order which came to be passed by the Additional Collector, Sitamarhi on transfer of the appeal by the Collector of the district. As such, the order dated **04.11.1993** and the subsequent order dated **21.01.1997** passed by the **Collector, Sitamarhi** are nothing but review of the order dated **30.11.1992** for which the respondent no. 2 had got no power. Thus the two orders dated **04.11.1993** and **21.01.1997** are fit to be interfered with.

14. Learned counsel for the petitioners conclude by





submitting that once the deed was executed, the same cannot be annulled save and except in accordance with law. Further, the Collector, Sitamarhi had no power to review the order passed by the Additional Collector. In that background, the order passed by the Collector, Sitamarhi needs interference.

(b) RESPONDENT NO.6 VERSION:

15. On the other hand, the case of the respondent no.6/heirs is/are that:

(i) the entire claim of the writ petitioners flow from a lease of the year 1939 which was for a period of 30 years and came to an end on 20.09.1969 (as it was registered on 20.09.1939). Further, by their own showing, an application for renewal was filed for the first time only on 12.02.1976 (Annexure-9) much after the expiry of the lease in question;

(ii) the condition no. 14 of the lease deed (Annexure-4) would show that the request for renewal is/was to be made before to the Collector three months prior to the expiration of the lease and this request too was to be entertained only when he had performed all the terms and conditions of the lease whereas by the own showing of the writ petitioner(s), the request for renewal was made more than six years after expiry thereof, the writ petitioner has got no subsisting legal rights to





maintain the entire proceeding appertaining to the lease in question.

16. The contention of the respondents further is/are that:

(a) the land in question was vacant with no claimant in possession of the same and as such on the information/request made by the original lessee Bhola Singh in the year 1955, the husband of the respondent no.6, Rama Prasad Verma came in possession of the land and also constructed a house;

*(b) on 05.09.1962, the husband of the respondent no.6 (now substituted by heirs), formally applied for the settlement of the land through an application before the Additional Sub-Divisional Officer, (Revenue), Sitamarhi on 05.01.1962. On the said application, under the orders of the **Deputy Collector, Land Reforms, Sitamarhi, the Circle Officer, Dumara** conducted an enquiry and he came to the conclusion that the land was lying vacant, and the same was in possession of Rama Prasad Verma for a long period. Further, the rent of the land in question has been deposited by Sri Verma for and on behalf of the original settlee. The official, have recorded that he tried to trace the original*





settlee, but was unable to locate. Accordingly, the recommendation was made to cancel the settlement and the land be recorded in the name of the respondent no.6;

(c) it has to be noted that after 1944, no rent was paid by the original settlee, hence all the rents of the land in question from 1944-45 and thereafter were cleared by the husband of the respondent no.6 alone and in the receipt, as depositor, his name is/was very much recorded;

*(d) pursuant to the above enquiry, the D.C.L.R., Sitamarhi vide **memo no. 500 dated 08.08.1962** recommended to the Additional Collector that the original settlee has never exercised right, title and possession and the same was only exercised by the husband of the respondent no.6 and therefore in view of his possession, the land be settled with him as the original settlee, Bhola Singh has violated the terms and the conditions thereof;*

*(e) this followed the letter dated **17.10.1962** by the **Additional Collector, Muzaffarpur** to the **Sub-Divisional Officer, Sitamarhi** that before considering the settlement with the husband of the respondent no.6 Rama Prasad Verma, certain preliminary enquiry is required as to how much of land is left out, how much is vacant and whether they would*





be required for governmental use or not;

*f) thereafter, vide **letter no. 1301 dated 11.08.1963**, the S.D.O, Sitamarhi wrote to the Additional Collector that the case of Rama Prasad Verma, settlee is valid and the same be done as the original settlee has abandoned the land for a long time;*

g) thereafter, the house plan of the respondent no.6 was sanctioned by the Vice Chairman of the Notified Area Committee, Dumara being the prescribed authority. The husband of the respondent no.6 thereafter made construction in the year 1966 and is living there since then. The contention is that after the construction of the house, it was Rama Prasad Verma and after his death, his son who has been paying the holding tax to the Dumara Notified Area Committee since 1968 till date and the copy of the receipt dated 08.11.1968 and 02.11.1993 has been brought on record (Annexure-H);

h) the further stand is that much before the sanction of the house plan, a recommendation was also made that the claim of the husband of the respondent no.6 for settlement be placed before the settlement committee constituted by the government wherein all the official members had made recommendation including the Vice Chairman of the Notified





Area Committee;

i) however, unfortunately, the matter remained pending for formal settlement. In the meantime, some information were sought for from the husband of the respondent no.6 which was duly responded to the DCLR, Sitamarhi;

*j) the further case is that the Revisional Survey Khatiyan was finally published on **02.09.1968** in respect of **plot no. G-9, Khata No. 863**, the possession of **Rama Prasad Verma** only was shown in the **column no.7** (Annexure-I);*

k) the contention is that there are number of correspondence between the husband of the respondent no.6 with the Circle Officer and the DCLR as also the Additional Collector with regard to the various clarifications sought, for suitably replied (Annexure-J);

*l) further, the **Title Suit No. 9/1984** was filed by the said Rama Prasad Verma against the tenants namely Umesh Prasad, and others. In the said suit, an application for intervention was filed by the son of Prabhu Singh (the present writ petitioner no.3) asserting Title over the land;*

*(m) in the said case, vide detailed order dated **11.08.1984**, the **Munsif, Sitamarhi, West** was pleased to reject*





the intervener application;

(n) having failed in all his efforts, the petitioner in the month of October, 1993 forcibly entered into the house of the respondent no.6 and thereafter, the SDO Sadar, Sitamarhi, in the light of the order by the Collector directed for posting of Police Forces to ensure the removal of undesirable elements which included the petitioner from the house.

17. The stand of the respondents is that the petitioners never produced any death certificate to support the year of death of Bhola Singh.

18. Further submission of the respondents is/are that the stand of the petitioners that the husband of the respondent no.6 was a tenant in the house of the petitioner's father is wholly incorrect, misleading and false. The fact is that more than 6 years after the expiry of the lease, an application for renewal was made in the year 1976 in a malafide manner followed by a misleading enquiry report by the Circle Officer in collusion with the petitioners. Later, when the authorities, including the Additional Collector, Sub-Divisional Officer and the DCLR, inquired into the matter, they were satisfied about the settlement of the land with the husband of the respondent no.6.





19. Further, a recommendation was made by the Circle Officer, Dumra vide dated **11.12.1980**. The contention is that the Collector is the authority to settle the Khas Mahal land and as such, he rightly took up the matter earlier on **04.11.1993**. Further, the order dated **21.01.1997** was passed after the remand and as such, it should be considered as the original order in the process of settlement.

20. The further submission is that the recommendation of the Circle Officer dated 11.12.1980 (Annexure-2) was a recommendation but the final decision pertaining to the same always vested with the Collector alone.

21. The contention is that all the questions that the Collector had no power to entertain the appeal against the order passed by the Additional Collector is completely devoid of merit. Further, once the matter came to the Patna High Court in the writ petition filed by the petitioners themselves, the writ petition was disposed of with the directions given to the Collector, Sitamarhi to pass an order after hearing the parties afresh. As such, he rightly heard the matter and passed the order in question.

22. The respondents have taken this Court to salient features of lease deed which read as follows:





(a) the lease can be canceled if the building is not completed within three years of the date on which it was executed or within such further period as the Collector may allow the question of renewal of lease was to be considered only after an application was to be filed three months prior to the expiry.

(b) if the lessee shall have duly observed and performed all the terms and conditions, he may be entitled for one more renewal.

23. The reiteration of the respondent no.6 is that the petitioner's family had abandoned the land in question immediately after the lease deed was rented, not made any construction within the permissible time in terms of the lease. Therefore, there was no legal claim existing for the petitioner/family. The contention is that all these rights flowing from the lease pertains to complicated questions of the fact which is required to be determined by taking proper evidence before a competent Civil Court and cannot be adjudicated in the writ jurisdiction.





24. The further case of the respondents is/are that an amount of Rs.95,000/- has already been deposited by the respondent no.6 for settlement of the land in question being the 'salami' amount with the requisite fine. They are/were residing in the house for decades after construction which also found incorporated in the reports of the Revenue Authorities.

25. The contention is that, a mere perusal of Annexure-2 would show that the original lessee, Bhola Singh or his son, Prabhu Singh never constructed any house and that for the last several decades, it is/was in possession of the respondent no.6/family, a fact also confirmed in the enquiry made by the Circle Inspector who found that since the year 1954-55, Rama Prasad Verma was in possession of the land and had earlier constructed a 'Kachcha' house and thereafter a 'Pucca' house.

26. This fact has also been noticed by the revenue authorities that much before the expiry of the lease in question, the original lessee had abandoned it and atleast there is positive evidence that since 1963, the case of the respondent no.6 (through her husband Rama Prasad Verma, who was then alive), was being considered for settlement. This fact has also been incorporated in the order dated 21.01.1997.





27. So far as the cases of the **Gait Public Library (supra)** and **Hindustan Petroleum Corporation Limited (supra)** are concerned, the submission of learned counsel for the respondents is that the two cases are not at all applicable in the present case inasmuch as in the aforesaid two cases, they were in continuous possession of the property in question and there was allegation of violation of lease deed and in that background, the Hon'ble Court interfered in the matter holding that the respondents ought to have acted strictly in terms of the lease deed.

28. The contention is that in the present case, admittedly, the grandfather of the petitioners abandoned the property after allowing the father of the respondents to reside in it. In fact, it was Rama Prasad Verma who paid rent/electricity bills and even prior to the expiration of the lease deed, there are official documents in this regard to prove the possession of Rama Prasad Verma over it.

29. The respondents conclude by submitting that once the Patna High Court vide an order dated **07.12.1994 (in CWJC No. 1554 of 1994)** after setting aside the earlier orders directed the Collector, Sitamarhi to pass an order, the Collector, Sitamarhi vide an order dated **21.01.1997** passed a





reasoned order which need no interference. The writ petition thus is fit to be dismissed.

(C) STATE's VERSION:

30. The respondent nos. 1 to 5 have also filed their reply and according to them, after the order/direction passed by this Hon'ble Court on **07.12.1994 in C.W.J.C. No. 1554 of 1994**, the case was heard by the Collector, Sitamarhi afresh after giving proper notice to the parties as also hearing them, the final order was passed on **21.01.1997**.

31. Further, Annexure 5 to the writ petition is not the 'Khatian' rather it is the extract of Jamabandi Register II for the village Dumra. In Khatian R. S. P. No. 2825, it is recorded in the name of P.W.D. in Khata No. 863 and possession of Rama Prasad Verma is mentioned in remarks column.

32. After the execution of lease deed, the same was abandoned by the original settlee, the house was not constructed and the petitioners' family were not in possession, rather on inspection, it was found that late Rama Prasad Verma was in possession. The lessee or his heir did not file any petition on time for renewal within the period of 30 years and before the expiry of the terms of the lease.

33. In fact, from the year 1955 itself, there are





official documents to show that Rama Prasad Verma constructed house and started living in it. Again, in the year 1962-63, the recommendation for electric supply as also execution of lease deed in his favour have been found to be on record.

34. Further, as the lessee was not in possession of the land and no application for renewal of the lease was filed before the expiry of the lease, the order of the Collector, Sitamarhi to take steps for settlement of the land with person in possession was perfectly justified.

35. The stand of the State respondent is that the provisional survey was not held in the year 1976 rather it started in the year 1959-60 and finalised in the year 1968 where Rama Prasad Verma was recorded to be in possession of the land in question.

36. The stand is that the petitioner or his ancestors were not in possession for several decades prior to the expiry of the lease and no application for renewal was ever filed before the expiry of the lease and as such, the government resolution dated 17.11.87 did not apply in this case. Further, the respondent no.5 had no authority to send notice (Annexure 16) as the petitioners' family were not in possession of the





land in question. The writ petition as such is fit to be dismissed.

FINDINGS:

37. This Court has gone through the contention of the parties and has perused the documents on record.

38. The admitted facts of the case is/are that:

(i) one Bhola Singh entered into lease deed with the government regarding the Khas Mahal land in question on 20.09.1939;

(ii) later, Bhola Singh allowed Rama Prasad Verma to enter the said land in 1955 who started paying the rent;

(iii) in the year 1962, Rama Prasad Verma applied for the settlement of the land;

(iv) an enquiry was conducted and after the revenue authority recorded that the original lease holder could not be traced, Rama Prasad Verma is residing since long, recommendation was made for cancellation of the lease deed and to settle the same with respondent no.6;

(v) in the year 1966, the home plan of Rama Prasad Verma was sanctioned on the said land whereafter construction was made;

(vi) however, the settlement of land with Rama





Prasad Verma remained pending with the respondents;

(vii) in the year 1984, an Eviction suit was filed by Rama Prasad Verma against tenants vide TS No. 9/84. The petitioners tried to intervene but the same was rejected by the court;

(viii) in the year 1976, i.e. six years after the expiry of the lease deed in the year 1969, an application for the renewal was made;

(ix) this followed the initial reports of the Circle Officer, Dumra in favour of the petitioners but later the constant reports of all the revenue authorities are/were that the land in question is/was with Rama Prasad Verma and as such, settlement be made with them;

(x) however, the Additional Collector vide an order dated 30.11.1992 (wrongly recorded as 31.11.1992) made recommendation for renewal of lease deed in favour of the petitioners;

(xi) the Collector, Sitamarhi having taken note of all the facts negated the said recommendation vide an order dated 04.11.1993;

(xii) the petitioners approached the Patna High Court in CWJC No. 1554 of 1994 which was allowed on





07.12.1994 with the direction to the Collector, Sitamarhi to pass an order afresh;

(xiii) accordingly, the matter was taken up afresh by the Collector, Sitamarhi and after hearing the parties, it passed the order in question on 21.01.1997. This followed the present writ petition.

39. This Court has further taken note of the fact that:

(a) on an application submitted by the petitioner's family in the year 1976 for the renewal of lease deed, a spot inspection was made. The 'Anchal Amin' in its report dated 12.08.1976 recorded the presence of the petitioner on the said land;

(b) this followed the Circle Officer's report dated 20.08.1977 with recommendation for the renewal of the lease deed which followed an order dated 25.08.1977 by which the petitioner's were directed to file the papers;

*(c) the respondents in the year 1978 preferred petition for settlement of land in their favour showing their presence over it before the **Circle Officer, Dumra** which led to **Case No. 43 of 1978** who vide an order dated 11.12.1980 made recommendation in favour of the respondents and sent the matter to the **Deputy Collector, Land Reforms, Sitamarhi***





*whereafter it traveled to the **Additional Collector, Sitamarhi**;*

*(d) the Additional Collector, Sitamarhi thereafter, vide an order dated **30.11.1992** (recorded as 31.11.1992) held that the claim of Rama Prasad Verma is fit to be rejected and accordingly, made recommendation to the Khas Mahal Committee (headed by the Collector) to look into the request of petitioners for the renewal of lease deed.*

40. The matter was thereafter taken up by the Collector, Sitamarhi after an objection was filed by the widow of Rama Prasad Verma (original respondent no.6) against the recommendation made by the Additional Collector. The Collector, Sitamarhi vide an order dated **04.11.1993** held that:

(i) the C.O., Dumra made recommendation in favour of Rama Prasad Verma on 11.12.1980;

(ii) the D.C.L.R., Sitamarhi West also made recommendation in his favour on 12.08.1981 and sent the file to the S.D.O.;

(iii) the S.D.O., in turn stamped the recommendation so made and sent the file to the Additional Collector, Sitamarhi on 14.10.1981;





(iv) the Additional Collector, thereafter on 19.04.1982 sent recommendation in favour of Rama Prasad Verma;

(v) further, against the recommendation made by the Circle Officer on 11.12.1980, an appeal was preferred vide 97/81 in which records of case no. 43 of 1978 was called for;

(vi) the Additional Collector, Sitamarhi was thereafter directed to take a decision;

(vii) the matter was to be heard on 30.11.1992. However, without giving any hearing to the parties, an order was passed on that very day by the Additional Collector;

(viii) this followed objection by the family of Rama Prasad Verma before the Collector, Sitamarhi;

(ix) on the objection so filed, the file was summoned on 03.12.1992;

(x) however, the file was not sent by the Additional Collector and he chose to return it only on 30.03.1993 upon his transfer and when he was to handover his charge;





(xi) the Collector, Sitamarhi found several anomalies in the file and also took note of the fact that the date 31st never comes in the month of November. Thereafter, the Collector, Sitamarhi looked into different documents filed by the parties and found that Bhola Singh died in the year 1948. Though it was disputed by the petitioners but no document was ever produced to support their claim that he was alive for the next one decade.

*(xii) accordingly, the Collector, Sitamarhi passed an order for renewal of lease in favour of respondents herein vide an order dated **04.11.1993**.*

41. Aggrieved, the petitioners approached the Patna High Court in **CWJC No. 1554 of 1994** challenging the order passed by the Collector, Sitamarhi. The same was heard and disposed of on **07.12.1994** and the order dated **4.11.1993** was set aside on the ground that the petitioners were not heard and as such, principle of natural justice was not followed (Annexure-3 of the petition). The High court further ordered the Collector, Sitamarhi to hear the matter afresh after giving





proper opportunity to the parties.

42. This Court records that once the Patna High Court passed an order dated 07.12.1994 in CWJC No. 1554 of 1994, asking the Collector, Sitamarhi to re-hear the parties, both the earlier orders dated 30.11.1992 of the Additional Collector, Sitamarhi and the order dated 04.11.1993 by the Collector, Sitamarhi got merged with the said Writ Court's order. Further, in view of the direction given to the Collector, Sitamarhi to hear the matter afresh, he rightly took up the matter and passed the reasoned order on 21.10.1997.

43. It is further to be noted that in the order dated 30.11.1992 (recorded as 31.11.1992), the Additional Collector, Sitamarhi sent the matter to the Khas Mahal Committee headed by the Collector and it was in the aforesaid circumstances that the Collector, Sitamarhi took up the matter and passed the order on 04.11.1993. However, as the petitioners were not heard, only on that ground, the matter was remanded back for its fresh hearing by the Patna High Court.

44. In that background, so far as the order dated 21.01.1997 is concerned, once the High Court remanded the matter back to be heard afresh, the Collector, Sitamarhi rightly took up the matter and after hearing the parties, was fully





justified in passing the order in question. Thus the contention of the petitioners that the Collector, Sitamarhi could not have reviewed the order of the Additional Collector has to be rejected in the background of the observations made herein.

45. This Court has further taken note of the petitioners' own contention that not only Rama Prasad Verma took electricity connection, he was also paying rent for the land in question. So far as the resolution no. 575 dated 18.11.1987 is concerned, the same is applicable only during the period when the lease is existing. There is nothing on record to show that any application for renewal of the lease deed was made during the lease period. On the contrary, by their own showing, they approached the respondents only in the year 1976 i.e. six years after the lease came to an end.

46. Further, the reports of the revenue authorities show that both the petitioners as well as the respondents families were having possession though on the different portions of the land. The reports clearly show that while the respondents family are residing in an old quarter century building; the petitioners' family actually forcibly entered on 01.10.1993 in 0.3 decimal of land where a 'Khaprail' structure has been recorded. On the complaint so made in the year 1993





about the said forcible entry on 01.10.1993, the respondents had even ordered their removal.

47. Thus the findings clearly show that the respondents are residing in the old buildings present there while the petitioners' presence have also been recorded in 0.3 decimal of land though in the year 1993. Thus, the complicated questions are involved in this case which cannot be adjudicated in the writ jurisdiction.

48. So far as the cases of the Hon'ble Apex Court cited by the petitioners is/are concerned, admittedly, in the cases of the **Gait Public Library** (supra) and **Hindustan Petroleum** (supra) there were continuous possession which was/were not in dispute. The respondents alleged violation of lease deed and in that background, the Court interfered with the order. Here the government documents show presence of Rama Prasad Verma since the year 1955 and even allowed the respondents for the construction of house/use of electricity etc. In fact, in the year 1962-63 itself, steps were taken for the execution of lease deed with Rama Prasad Verma recording that there is no trace of original lease holder. Thus the aforesaid two orders do not come to the rescue of case and are not applicable in the present matter. Each and every case has





different facts and the circumstances and the two orders of the Hon'ble Apex Court in the particular facts and circumstances are not applicable in the present case.

49. In the aforesaid background, this Court is of the opinion that the reasoned order dated **21.01.1997** passed by the **Collector, Sitamarhi** need no interference.

50. The writ petition is accordingly dismissed. The interim order stands vacated. No Cost.

(Rajiv Roy, J)

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