

Letters Patent Appeal No.830 of 1998  
Against the judgment and order dated 30.6.1998 passed in  
C.W.J.C. No. 4734 of 1997

-----

KATKU RISHI & ORS------(Appellants)

Versus

THE STATE OF BIHAR & ORS------(Respondents)

For the appellants : Mr. Qumurul Hoda

For the State : Mr. Manu Shankar Mishra, G.A. No. 10.

(for respondent no. 1 to 3)

Mr. Jai Krishna Prasad (for respondent no. 4)

**P R E S E N T**

**THE HON'BLE MR. JUSTICE SUDHIR KUMAR KATRIAR  
&  
THE HON'BLE MR. JUSTICE KISHORE K. MANDAL**

S.K.Katriar  
&

Kishore K. Mandal, JJ,

Heard Mr. Qumrul Hoda for the appellants, Mr.

Manu Shankar Mishra, Learned Government Pleader no. 10 for  
respondent no. 1 to 3, and Mr. Jai Krishna Prasad for respondent  
no. 4 (Mobed Hussain).

This appeal has been preferred under clause 10 of the  
Letters Patent of the Patna High Court, and the appellant is  
aggrieved by the order dated 30.6.1998 passed in C.W.J.C. No.  
4734/1997, whereby the learned Writ Court has dismissed the writ  
petition with the liberty to the writ petitioners(the appellants herein)  
to move an appropriate Court of law, if permissible, to raise their  
grievances because it involves disputed questions of facts

We have perused the materials on record and considered  
the submissions of learned counsel for the parties. It appears to us  
that the appellants have raised this issue in a representative  
capacity and their case is that the land in question is a Gair  
Mazarua Aam Land of the State of Bihar and comprises of a pond  
and road which has now wrongly gone to respondent no. 4.

The case of respondent no. 4 is that he is the Nati of the recorded tenant in the C.S. Khatiyan and claims to have inherited the same.

The appellants challenge the status of respondent no. 4 as the Nati of the recorded tenant and also asserts public rights over the lands in question. It appears to us that it needs substantive evidence to determine such issues and cannot be adjudicated on the basis of affidavits in writ jurisdiction.

In that view of the matter, we agree with the order of the learned Single Judge, Faced with the situation, learned counsel for the appellants (the writ petitioners) seeks permission to withdraw this appeal to approach the appropriate forum.

This appeal is accordingly permitted to be withdrawn.

(S.K. Katriar, J.)

(Kishore K. Mandal, J.)

Patna High Court,  
Dated 21<sup>st</sup> January, 2008  
NAFR/(pkj)

