

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7958 of 1994

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1. Shanti Devi, wife of Late Mani Pandey
1(a) Ram Ekbal Pandey, son of Late Mani Pandey, both resident of Village Bhagwanpur, P.S. Bhagwanpur, District Bhabhua
1(b) Indrawati Devi, wife of Bhupendra Nath Tiwary, resident of Village Sonhariya, P.S. Jamaniya, District Gajipur (U.P.)
1(c) Indu Devi, widow of Late Dauji Upadhaya, resident of Village Karji, P.S. Chainpur, District Kaimur
1(d) Sindhu Devi, wife of Hari Shankar Ojha, resident of Village and P.O. Gundi, P.S. Arrah, District Bhojpur
1(e) Bindu Devi, wife of Sri Lokesh Pandey, resident of Village Mankapara, P.S. Chakiya, District Varanasi (U.P.)
2. Most. Bal Kesh Kunwar, widow of Late Shiv Parsan Pandey
2(a) Shashi Bhushan Pandey
2(b) Hari Shankar Pandey
2(c) Bijay Bhushan Pandey
2(d) Anand Bhushan Pandey, all sons of Late Shiv Parsan Pandey
2(e) Rita Kumari, D/o Late Shiv Parsan Pandey, all are residents of Village Bhagwanpur, P.S. Bhagwanpur, District Bhabhua
2(f) Sandhya Devi, wife of Ajay Upadhaya married daughter of Late Shiv Parsan Pandey, resident of Runiya, P.S. Bhabhua, District Bhabhua
3. Bishambhar Pandey
4. Purshottam Pandey
5. Balmiki Pandey, all sons of Ram Tahal Pandey, residents of Village Bhagwanpur, P.S. Bhagwanpur, District Bhabhua
6. Gobardhan Pandey, son of Late Awadhesh Pandey, resident of Village+ P.S. Bhagwanpur, District Bhabhua
7. Mandalasha Devi, wife of Chandra Bhushan Pandey, Village Ushari, P.S. Chakia, District Varanasi (U.P.)
8. (a) Shyam Sunder Pandey, H/o Late Shanti Devi
8 (b) Ravi Shankar Pandey, S/o Late Shanti Devi
8 (c) Lali Devi, D/o Late Shanti Devi, all residents of Vilalge Ratwar, P.S. Bhabhua, District Bhabhua

.... Petitioner/s

Versus

1. The State of Bihar
2. Additional Member Board of Revenue, Old Secretariat, Patna
3. Commissioner, Patna Division, Patna
4. District Magistrate-cum-Collector, District Bhabhua
5. Mr. Vishnu Kumar, the then Sub-Divisional Magistrate, Bhabhua, District Bhabhua

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Om Prakash Pandey, Advocate
Mr. Satyendra Pandey, Advocate
Mr. Satish Kumar, Advocate
For the State : Mr. Raju Giri, GP-30
Ms. Aditi Hansaria, AC to GP-30

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
ORAL JUDGMENT
Date: 14-05-2015

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Heard learned counsel for the petitioners and the State.

2. Petitioner Nos. 1 to 6 are the heirs and legal representatives of Ram Tahal Pandey, son of Chhabinath Pandey. Petitioner Nos. 7, 8 are the daughters of Bachnu Pandey, son of Chhabinath Pandey and Ramrati Kuer, wife of Bachnu Pandey. They have filed this writ petition assailing the resolution dated 06.07.1994, passed by the Additional Member, Board of Revenue in Case No. 107/1990, Annexure-4 whereunder he has upheld the order dated 04.09.1990, passed by the Commissioner, Patna Division in Ceiling Appeal No. 105/1988, Annexure-3 and the order dated 25.08.1987, passed by the Collector, Rohtas in Ceiling Case No. 05/1987-88, Annexure-2 whereunder lands of land holder Bachnu Pandey has been declared surplus and in the light of said order acquired vide gazette notification dated 24.11.1987 issued under Section 15 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the Act).

3. It is submitted on behalf of the petitioners that Ceiling Case No. 40/76-77 was initiated against Bachnu Pandey who, during pendency of the said ceiling case, in the year 1977, left for heavenly abode. After death of Bachnu Pandey, his wife Ramrati Kuer



was substituted in the proceeding. Aforesaid land ceiling proceeding was, however, decided ex parte in the year 1987. In the light of the ex party order gazette notification making acquisition of 19.16 acres of surplus land of Bachnu Pandey was published. Before possession of the aforesaid surplus land was taken petitioners filed objection Case No. 42/86 asserting that while declaring the lands of Bachnu Pandey surplus, the authorities have included and acquired the lands of petitioner nos. 1 to 6 which they got in the family partition effected vide compromise decree dated 19.10.1971, passed by the High Court in First Appeal No. 94/1966, Annexure-8 to the supplementary affidavit. As the objection was not considered petitioners also filed C.W.J.C. No. 5560 of 1986, which was disposed of under order dated 02.01.1987. During pendency of the aforesaid objection State-Respondents themselves reopened Ceiling Case No. 40/76-77 under order dated 25.08.1987, passed by Collector, Rohtas under Section 45(B) of the Act and again acquired surplus land vide notification dated 24.11.1987.

4. From the order of the Collector, Rohtas dated 25.08.1987, 27.11.1987, Annexure-2 it does not appear that the objection of either Ramrati Kuer or of the petitioners vide Case No. 42/86 has been considered, which is in fraction of sub-section (3) of Section 10 of the Act. It also does not appear from the order of the Commissioner, Patna Division dated 04.09.1990, passed in Ceiling

Appeal No. 105/1988, Annexure-3 or from the resolution of the Additional Member, Board of Revenue dated 06.07.1994, Annexure-4 that the objection of the petitioners in terms of sub-section (3) of Section 10 of the Act has been considered and without considering the objection acquisition of the surplus land under gazette notification dated 24.11.1987 has been made, which is wholly without jurisdiction and is accordingly, quashed along with the orders dated 25.08.1987, 27.11.1987 passed by the Collector, Rohtas, order dated 04.09.1990 passed by the Commissioner, Patna Division and the resolution dated 06.07.1994 passed by the Additional Member, Board of Revenue, Annexures, 2, 3, 4 with direction to the Collector, Kaimur at Bhabhua, in whose jurisdiction the lands in question is presently situate, to consider the Objection Case No. 42/86 in the light of the two compromise decree passed by the High Court dated 31.08.1961, 19.10.1971, Annexures 5/1, 8 and pass appropriate order in the matter in accordance with law within two months from the date of receipt/production of a copy of this order before the Collector, Kaimur at Bhabhua.

5. The writ petition is, accordingly, disposed of.

(V.N. Sinha, J.)

Rajesh/-

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