

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9710 of 1994

Shyama Nand Thakur, Son of Late Sadanand Thakur, resident of Village- Balai,
P.S. Simraha, P.O. Tiris Kund, District- Araria

.... Petitioner

Versus

1. The State of Bihar
2. The Sub Divisional Officer, Forbesganj, Araria.
3. The Circle Officer, Forbesganj, Araria.
4. Panch Kauri Mian, son of Late Razai Mian, resident of Village- Balai, P.S. Simraha, District- Araria.

.... Respondents

Appearance :

For the Petitioner : Mr. Ajit Kumar Singh, Advocate.
Mr. Avinash, Advocate.
For the respondent : Mr. Shabbir Ahmad, Advocate.
For the State : Mr. Din Bandhu Singh, G.P. IX.

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 21-05-2015

Heard learned counsel for the
petitioner, State and the counsel for Private
Respondent No. 4.

2. Petitioner has filed this writ
application assailing order dated 10.11.1992 passed
by Circle Officer, Forbesganj in Case No. 169/92-93
under Section 48D of the B.T Act (Annexure-6),
whereunder Private Respondent No. 4 has been
declared as occupancy raiyat of Plot No. 1453
appertaining to Khata No. 367, area 1.46 decimals.
He has also assailed order dated 02.09.1994 passed
by Sub-Divisional Officer, Forbesganj in Case No.

12/93 (Annexure-7), whereunder appeal filed against the order dated 10.11.1992 has been rejected.

3. It is submitted on behalf of the petitioner that the aforesaid impugned orders are contrary to the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. In this connection he has referred to Sections 3, 12 of the said Act which, inter alia, provide that the provisions of the Ceiling Act shall have effect notwithstanding anything to the contrary contained in any other law, custom, usages or agreement. Section 12 of the Act empowers the raiyat to resume possession of the lands-in-question from the under-raiyat. It is submitted on behalf of the petitioner that Bhoganand Thakur, Sadanand Thakur and Yoganand Thakur were coparceners. There was partition between them. After the partition lands-in-question came to the share of Sada Nand Thakur, Yoganand Thakur, which is evident from the notice issued under the Act and published in Extraordinary Gazette of Purnea district dated 31.03.1984, Annexure-1. It is submitted on behalf of the petitioner that prior to publication of the aforesaid Gazette Notification, initiation of Ceiling Case No. 1/74-75,





the lands-in-question became subject matter of proceedings under the B.T. Act between Bhoganand Thakur, son of Harinandan Thakur and Private Respondent No. 4 in which on the basis of a compromise petition it was held that Respondent No. 4 has given up his sikmi rights over the lands-in-question. It is further submitted that earlier another proceeding under Section 108(a) of the B.T. Act was initiated with reference to the lands-in-question between Bhoganand Thakur and Respondent No. 4 vide Special Misc. Case No. 1/72 Case No. 15/59 which was disposed of under order dated 30.12.1971, Annexure-4, in the last paragraph of the said order it is observed that the Khatian of the lands-in-question prepared in the name of M/S Gultu Mandal, Chunni Mandal, Pachkauri Mian, Jagat Mandal, Tanuki Mandal, Aladdin and Buddhu Mian appears to have been erroneously made, their name was directed to be struck off from the Khatian. Against the aforesaid order Special Misc. Appeal No. 1 of 1972 was preferred by Most. Tukani and others against Ramanand Thakur and others which was also dismissed under judgment dated 31.01.1977, Annexure-5. It is submitted on behalf of the petitioner

that the impugned orders dated 10.11.1992, 02.09.1994 Annexures- 6, 7 have been passed without taking into account either the ceiling proceeding initiated against the petitioner, Yoganand Thakur as also the orders passed under the B.T. Act, contained in Annexures 3, 4 and 5.

4. Perusal of the impugned orders dated 10.11.1992, 02.09.1994, Annexures-6, 7 indicate that the aforesaid orders referred to above have not been considered by Circle Officer, Forbesganj and the appellate authority Sub-Divisional Officer, Forbesganj, as such, for the reasons of non-consideration of the relevant provisions of the Ceiling Act as also the orders passed under the B.T. Act the two impugned orders are quashed.

5. The writ petition stands allowed.

(V.N. Sinha, J)

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