

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6549 of 1993

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Smt.Shiva Devi W/o Shri Baliram Singh, resident of village- Guram PS
Ramgarh District Bhabhua, PS Ramgarh, Dumraon PS Sheosagar District
Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Rohtas, Sasaram

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Om Prakash Upadhayay, Advocate
For the Respondent/s : Mr. Rajiv Kr. Singh, GP 2

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

6 01-05-2015

The petitioner claims to be the daughter of Sakhichand Singh of village Dumra PS Sheosagar in the district of Rohtas, who had died in the year 1967. It is her claim that the said Sakhichand Singh had died leaving behind the present petitioner and another son Ramakant Singh, both of whom were major as on the crucial date, i.e., 09.09.1970.

A land ceiling proceeding was initiated against the said Ramakant Singh sometimes in the year 1971-72 whereafter 6.95 acres of land belonging to said Ramakant Singh was declared surplus. The said Ramakant Singh contested the matter up to the level of this court by filing CWJC No. 1373 of 1978. It is the petitioner's claim that her brother Ramakant Singh suppressed the fact that petitioner was the daughter of Sakhichand Singh and was major as on 09.09.1970. Accordingly, it is her plea that she was entitled for her own share in the property of Sakhichand Singh after his death and the units under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the Act) should have been decided accordingly.

According to her, despite the fact that she was major as on 09.09.1970, no notice was given to her as she was married to one Baliram Singh of village Goriyan under the Ramgarh PS of district Bhabhua.

Once the official gazette on 23.02.1991 was published whereby, 6.95 acres of land was declared surplus, the petitioner approached this court by filing CWJC No. 7470 of 1991 raising a plea that Ramakant Singh, brother of the petitioner and son of Late Sakhichand Singh, had suppressed the fact about the petitioner being daughter of said Sakhichand Singh and the petitioner learnt about the land ceiling case only after publication of notification under 15(1) of the Act. A division Bench of this court disposed of the writ application by an order dated 21.01.1992 observing that it was difficult in the absence of relevant material to ascertain whether any unit was claimed on her behalf or she was given a notice. The court taking into account the facts and circumstances directed the petitioner to file an application before the Collector, Sasaram (Bhabhua) who, in turn, was directed to examine her grievance and, if necessary, pass an order under section 45(B) of the Act.

The petitioner, accordingly, filed an application before the Collector, Rohtas giving rise to Land Ceiling case No. 10.1992 (Smt. Shiva Devi v. the State of Bihar & Ors) claiming herself to be daughter of Late Sakhichand Singh and sister of said Ramakant Singh, the land holder. She claimed that she was married to one Baliram Singh of village Goriyan in the district of Bhabhua in the year 1969 and since then she had been living with her husband in her Sasural and she occasionally come to the village of Ramakant Singh. She asserted before the Collector that

Ramakant Singh submitted incorrect return and suppressed the name of the petitioner, who was major as on 09.09.1970, and the incorrect return was never verified nor any effort was made to verify the fact as required under section 7 and 8 of the Act and Rule 8 and 9 of the Rules.

The Collector after hearing the petitioner's advocate and Government Pleader on behalf of the State and upon perusal of the lower court records came to a finding that lands had been recorded in the name of Ramakant Singh in the khatian. The Collector rejected the claim holding that had the petitioner got any claim over the land in question, she would have got her name entered in the record of rights and she never raised such claim in course of ceiling proceeding.

Before coming to the validity of the order of Collector, which is impugned in the present writ application, I need to point out the fact that nearly 22 years ago this writ application was filed by the petitioner claiming herself to be sister of said Ramakant Singh and daughter of Sakhichand Singh making specific allegation that the said Ramakant Singh suppressed the fact in course of ceiling proceeding that he had a sister also but the said Ramakant Singh has not been impleaded as party respondent in the present writ application. It further appears that even before the Collector, the petitioner did not implead Ramakant Singh as party in Land Ceiling Case No. 10/1992 though she claimed share in the property which the said Ramakant Singh inherited from Sakhichand Singh.

It further transpires from the order dated 02.08.1993 that the contents of the writ application was affidavited by one Awadhesh Singh in a manner which was strongly deprecated by

this court. In my opinion, this is a disputed question of fact as to whether the petitioner is the daughter of Sakhichand Singh or not and was entitled for any share in the property left behind by him or not.

From the order of the Collector dated 03.02.1993, I find that the petitioner miserably failed to explain as to what prevented her from claiming her share when the ceiling proceeding was going on. This court is not ready to believe the plea that petitioner had no knowledge as regards ceiling proceeding before notification under section 15(1) of the Act declaring 6.95 acres of land to be surplus.

I intended to impose exemplary cost on the petitioner for the manner in which the present writ application was conducted and apparently frivolous claim has been raised but in view of submission made on behalf of the petitioner, I have restrained myself from doing so.

This writ application is, accordingly, dismissed. The interim order dated 24.07.1998 stands vacated.

(Chakradhari Sharan Singh, J)

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