

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.547 of 1997

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Chakardhar Prasad Singh, son of Late Badri Narayan Singh, resident of village-Banshi Purendha, Police Station-Dhamdaha, District- Purnea

.... Petitioner

Versus

1. The State of Bihar
2. The Collector,Purnea, District- Purnea
3. The Deputy Collector, Land Reforms, Purnea, District-Purnea
4. The Circle Officer, Dhamdaha, Police Station- Dhamdaha, District-Purnea
5. Vijay Narayan Chand alias Munna
6. Bhadur Kumar Chand
7. Prakash Kumar Chand
8. Gunjan Kumar Chand.

All sons of Late Pratap Narayan Chand, residents of village-Bishanpur, Police Station, Dhamdaha, District- Purnea.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. A.P. Ambastha
Mr. Binay Kumar

For the Respondent/s : Mr. S.K. Singh, A.C. to S.C.12

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 30-07-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks quashing of the final publication
dated 18.07.1990 in Extra-Ordinary Gazette of the State regarding
Khata No.378, Plot Nos. 1179 and 1180, areas 0.54 decimals and 1
acre and 14 decimals respectively.

The petitioner had purchased the aforesaid lands by
registered sale deed dated 28.12.1955 (wrongly mentioned as
28.12.1953 in the application) from the father of respondent Nos. 5 to



8, namely, Pratap Narayan Chand. Thereafter, the petitioner claims to be coming in possession of the land in question and the order of mutation was also passed in his favour and Register-II opened in his name and rent receipts were granted by the officials of the State. Subsequently unknown to the petitioner, the land ceiling proceedings under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 were started against the vendor of the petitioner, in which the lands sold to the petitioner way back in 1955 were also included. The petitioner was unaware of such inclusion of his lands in the ceiling proceedings of the father of respondent Nos. 5 to 8 and only upon final publication under Section 15 (1) of the Act, he learnt about the same but upon his approaching the land ceiling authorities they expressed their inability to do anything in the matter. Aggrieved by the same, the petitioner has come to this Court.

Learned counsel for the petitioner submits that the action of the respondents is clearly illegal, as the lands in question having been sold much prior to the cut off date under the Land Ceiling Act they could not have been included in the name of the father of respondent Nos. 5 to 8 in the ceiling proceedings.

It is further submitted by learned counsel for the petitioner that no notice of the land ceiling proceedings, including the

lands of the petitioner, which were purchased by a registered sale deed and the name of the petitioner duly mutated and entered in Register-II, could have been taken without giving an opportunity of hearing to the petitioner by issuance and service of notice upon him.

No counter affidavit has been filed on behalf of the State-respondents disputing the facts stated in the writ petition, in which zerox copies of the sale deed and other documents have also been annexed. Thus, prima facie, the facts stated by the petitioner remain unchallenged. That being so, it was not open to the State-respondents to have at all included the lands of the petitioner in the ceiling proceedings with respect to the father of respondent Nos. 5 to 8 and proceeded further in the matter without giving a reasonable opportunity of hearing to the petitioner.

The writ application is, therefore, allowed and the final publication dated 18.07.1990 in Extra-Ordinary Gazette of the State, so far as it concerns the aforesaid lands claimed by the petitioner, is quashed. It shall be open to the respondent authorities, if so advised, to proceed afresh in the matter after giving proper opportunity of hearing to the petitioner.

V.P.Sinha/-

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(Ramesh Kumar Datta, J)