IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20677 of 2014

==

1. Aftab Alam son of late Abdul Sattar, resident of village:-Mahsu, P.O. Basdiha, P.S. Nabinagar, District Aurangabad.
2. Umat Rasool son of late Sudebar Ansari, resident of village Mahsu, P.O. Basdiha, P.S. Nabinagar, District Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Revenue and Land Reforms, Department Bihar, Patna.
3. The Collector, Aurangabad, Bihar.
4. The Additional Collector, Aurangabad, Bihar.
5. The Deputy Collector of Land Reform, Aurangabad, Bihar
6. The Circle Officer, Nabinagar, Aurangabad, Bihar.
7. Md. Yasin Son of Late Khalim Rasool, resident of village: Mahsu, P.O. Basdiha, P.S. Nabinagar, District Aurangabad.
8. Md. Ekram son of Late Abdul Shakoor, resident of village Mahsu, P.O. Basdiha, P.S. Nabinagar, District Aurangabad

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Nand Lal Kumar Singh, Adv.
For the Respondent/s : Mr. Ashok Kumar, SC-11

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 14-07-2015 The petitioners have questioned the notice issued under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act') by the Deputy Collector Land Reforms in a matter arising from Land Ceiling Case No. 39 of 1991-92 instituted under Section 16(3) of 'the Act' whereby the petitioner has been directed to execute the sale deed in respect of the land in question, in favour of the private respondents.

Heard Mr. Nand Lal Kumar Singh, learned counsel for the petitioners and Mr. Rajeev Lochan, A.C. to S.C.11 for the State.

In the present case whereas first round litigation initiated under Section 16(3) of 'the Act' at the instance of the private respondents up to the appellate authority went in favour of the father of the petitioner when the pre-emption application was dismissed by the D.C.L.R vide order passed on 13.4.2012 (Annexure-2) and affirmed by the Additional Collector vide order passed on 5.12.1992(Annexure-3) but vide order of the Board of Revenue, the matter was remanded for fresh consideration by the D.C.L.R. passed in Case No. 39 of 1992 (Annexure-3/A). Upon remand the D.C.L.R. again dismissed the preemption application vide order dated 17.7.1995 (Annexure-4) however, the appeal before the Additional Collector was allowed in Appeal Case No. 43 of 1995 (Annexure-5) and the revision preferred by the father of the petitioners was dismissed for default on 17.2.1997. The petitioners contend that they had no knowledge about the revision pending before the Board of Revenue and it is only when they received a notice from the D.C.L.R. on 29.8.2014 directing them to execute sale deed in favour of the private respondents that they became aware of the proceedings.

Section 9 of the Bihar Land Tribunal Act, 2009 provides for an alternative remedy to the petitioners by way of an application before the Tribunal which has not been exhausted. The petitioners should exhaust the alternative remedy so available to him.

Learned counsel for the petitioners submits that the limitation prescribed is 90 days and during the pendency of the writ petition the limitation has expired.

Considering that this writ petition was preferred within three months of the issuance of the notice impugned at Annexures-1 and 1/A respectively of the writ petition and taking into consideration the power vested in the Tribunal under Section 14 of the Bihar Land Tribunal Act, 2009 for condonation of delay, the petitioners shall be at liberty to pray for condonation of delay and which may be considered by the Tribunal in the backdrop that the matter was pending consideration before this Court.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Bibhash/-

U			