

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14988 of 2005

Sukhraj Mandal, son of Prayag Mandal, resident of village- Dira Chandpur, P.S.-
Falka, District- Katihar.

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Katihar, District- Katihar.
3. The Additional Collector (Ceiling), Katihar, P.S. and District- Katihar.
4. The Circle Officer, Falka, P.S.- Falka, District- Katihar.
5. Upendra Mandal, son of Late Dharnidhar Mandal, resident of village-
Gopalichak, P.S.- Pirpaiti, P.O.- Pirpaiti, District- Bhagalpur.
6. Atish Kumar Sinha alias Atindra Kumar Sinha, son of Late Mukti Narayan
Prasad, resident of village- Sameli, P.S.- Falka, P.O.- Falka, District- Katihar.

.... Respondents

Appearance :

For the Petitioner : Mr. Sushanta Kumar Das, Advocate
For the State : Mr. Vikas Ratan Bharti, A.C. to G.P.30
For Respondent No.5 : M/S P.K.Jaipuriyar and
Anshuman Jaipuriyar, Advocates

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-01-2015

I have heard the parties.

Petitioner challenges the order dated 23.6.1995 in
Ceiling Case No.24 of 1991-92/4 of 1992-93 as well as the order
dated 22.4.2005 passed by the Collector, Katihar in Ceiling Appeal
No.579 of 1997-98 contained in Annexures 3 and 4 respectively for
which the claim of the petitioner for cancellation of Red Card issued
in favour of respondent no.5 could not find favour of the authorities as
both, the original authority as well as appellant authority, have
rejected the claim.

The facts emanating out of the pleadings of the parties

stand enumerated as under :



A land ceiling proceeding vide Land Ceiling case No.151 of 1976-77 was initiated against the landholder in which part the lands were declared surplus and after considering the option of the landholder to hold certain land, the surplus lands were settled under Section 27 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. The land in question is of a total area of 88 decimals of Khesra no.3676 and 4469 appertaining to Khata No.318 of village Dira Chandpur, P.S. Chandpur, District Katihar which was settled in favour of the respondent no.5 in the year 1976-77 itself and after about 16 years, the petitioner filed an application before the Additional Collector for cancellation of Red Card issued and the settlement made in favour of the respondent no.5.

Learned counsel appearing for the petitioner has submitted that the Red Card was issued illegally in favour of the respondent no.5 as he belongs to some other village and, thus, this should be cancelled and since he was under tenant all along, settlement should be made in favour of the petitioner.

Counter affidavit has been filed on behalf of the State but the same has not been filed on behalf of the respondent no.5. Learned counsel for the respondent no.5 submits that he would accept the averments made in the counter affidavit filed on behalf of the



respondent nos.2 and 3. The respondents have submitted that the petitioner's case is merely a cock and bull story as he has not been able to produce anything to show that he was an under tenant/bataidar of the said land under the landholder except making out a bald statement. It is further submitted that, if the petitioner considered himself to be an under tenant and was willing to retain the land as occupancy raiyat, he was required to file a petition under Section 22 of the Act within a period of three months as per Rule 25 of Bihar Land Ceiling Rules 1963 but he has filed a petition after about 16 years, thus, the same could not have been accepted by the authority. The respondent have placed reliance upon a decision rendered by a Division Bench of this Court in **Maheshwar Mandal and another vrs. The State of Bihar and others, 2014(3) PLJR 281**. It is submitted that the Division Bench has, in an identical situation, refused to interfere with the matter after a long period of 22 years.

I find force in the submissions raised on behalf of the respondents. If the petitioner was claiming as under tenant he ought to have filed a petition under Section 22 of the Act within the statutory period of 90 days or even within a reasonable period with a prayer to relax the aforesaid 90 days but he has filed the same after about 16 years without bringing anything on record to show that he was actually under tenant of the landholder. He wants settlement of

the land in his favour after cancellation of purcha. However, Section 22 of the Act envisages that the under tenant could move before the authority with a prayer that he should be allowed to hold the land as occupancy raiyat, therefore, there would be no question of any settlement in his favour.

Thus, in my considered opinion, this Court does not find it a proper case warranting interference in exercise of its discretionary powers under Section 226 of the Constitution of India.

As a result, this application fails and, is accordingly, dismissed.

However, there would be no order as to cost.

(Dr. Ravi Ranjan, J)

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