

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6352 of 2013

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1. Basudeo Mandal S/O Late Luttu Mandal, Resident of Village- Hari Prasad, P.S- Mansahi, District- Katihar.
 2. Rohit Lal Mandal S/O Late Luttu Mandal, Resident of Village- Hari Prasad, P.S- Mansahi, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Katihar.
3. The Additional Collector (Ceiling), Katihar.
4. The Circle Officer, Mansahi, District- Katihar,
5. Mahadeo Mandal S/O Late Guna Mandal, Resident of Village- Hari Prasad, P.S- Mansahi, District- Katihar.
6. Kisan Mandal S/O Late Guna Prasad, Resident of Village- Hari Prasad, P.S- Mansahi, District- Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bholu Prasad
Mr. Mukesh Kumar Jha
For the Respondent No.1 to 4 : Mr. Rajeev Roy, G.P. 5
For the Respondent No. 5 & 6 : Mr. Sanjeev Kr. Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 05-11-2015 Heard the parties.

The matter at issue is the claim of the parties over the lands bearing plot no. 145 and 146 situate at village- Hari prasad P.S. Mansahi, district Katihar (hereinafter to be referred to as the lands in question).

Indisputably, the lands in question originally belonged to the ex-landlord Shri Rajendra Jha and his other family members, who have not been impleaded as party respondents in the present proceeding filed under Article 226 of the Constitution of India. It is common case of the parties that against the ex-landlord Shri Rajendra Jha and his other family members, a land ceiling proceeding was started under the Provisions of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of



Surplus Land) Act, 1961 (in short 'the Land Ceiling Act'), whereafter the ex-landlord voluntarily surrendered the lands in question, besides other lands, in terms of Section 15A(2) of the Land Ceiling Act. Consequently, a gazette notification dated 15.06.1976 (Annexure-1) was issued by the Deputy Secretary of the Government acquiring the lands in question under Section 15(1) of the Land Ceiling Act. The respondent no. 5 and 6 are said to have been issued red-cards with respect to the lands in question.

Learned counsel appearing on behalf of the petitioners submits that the lands in question was given to the father of the petitioners by the ex-land for his residential use and since then his father and after his demise, the petitioners have been coming in peaceful possession over the same. Therefore, according to him, the red-card issued in favour of the private respondents or their father was not valid and notice issued by the respondent Circle Officer, Mansahi for vacating the lands in question is fit to be quashed.

The matter has been contested by the learned G.P.5 appearing on behalf of the official respondent no. 1 to 4 by filing a counter-affidavit on behalf of the respondent no. 2 to 4. Learned G.P. 5 pointed out that in the whole writ petition the petitioners have not shown their right and title over the lands in question and they, in fact, have admitted that the lands in question was belonging to the ex-landlord. That being the factual position and the lands in question having been acquired by the State under Section 15(1) of the Land Ceiling Act by a gazette notification, as contained in Annexure-1, way back in the year 1976, the petitioners are simply encroachers over the lands in question and they have no legal right over the same. Therefore, they cannot

question the action of the respondents either allotting the lands in question in favour of the private respondents, or asking the petitioners to vacate the lands in question.

After having heard the parties and taking into consideration the aforesaid factual matrixes, this Court is of the considered opinion that the petitioners are simply outsiders so far the lands in question is concerned. They have absolutely no legal right over the lands in question. That being the position, they cannot be permitted to challenge the action of the respondent authorities including the impugned notice issued by the respondent Circle Officer.

The writ petition is devoid of merit and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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