

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1596 of 1996

- =====
1. (a) Manju Chaturvedi, wife of Late Dhirendra Nath Chaturvedi.
 - (b) Dharmendra Chaturvedi, son of Dhirendra Nath Chaturvedi.
 2. Raghwendra Nath Chaturvedi, son of Late Ram Nidhi Chaturvedi.
- All residents of Village-Nawabganj, P.S.-Narpatganj, District-Araria.
- Petitioners.

Versus

1. The State of Bihar.
 2. The Collector, Araria.
 3. The Sub-divisional Officer, Araria.
 4. The Deputy Collector of Land Reforms, Araria.
 5. The Sub-divisional Officer, Forbesganj.
 6. The Deputy Collector of Land Reforms, Forbesganj.
 7. The Anchal Adhikari, Narpatganj, Anchal-Narpartganj.
- Respondents.

=====

Appearance :

For the Petitioners : M/s Arun Kumar Ambastha, Ashok Kumar Mallick,
Murlidhar and Binay Kumar Sinha, Advocates.

For the State : Mr. Kamlesh Kishore, AC to GP-2.

For the Intervenor : Mr. Ajay Prasad, Adv.
Mr. Kaushal Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 30-07-2015

I.A. No.5433 of 2015 has been filed for substituting the name of petitioner no.1-Dhirendra Nath Chaturvedi who died during pendency of this writ application. The heirs i.e. the widow and the son, who are to be substituted, have appeared through Vakalatnama.

Heard.

I.A. No.5433 of 2015 is allowed. Let the names of heirs and legal representatives of petitioner no.1-Dhirendra Nath Chaturvedi, namely, Manju Chaturvedi and Dharmendra

Chaturvedi be substituted in his place.

The two original writ petitioners were aggrieved by the order dated 02.01.1987 of the Sub-divisional Officer, Araria, as passed in Land Ceiling Case No.175 of 1974-75, whereby he has unauthorisedly reopened the land ceiling proceedings which has twice been concluded and reduced the number of units that were held to be the entitlement of the petitioners.

It is submitted that first the land ceiling proceeding was initiated against the petitioners in the year 1966-67 which were concluded giving a finding with regard to unit they were entitled to and, accordingly, the lands were identified which were allotted to the petitioners and lands that were declared surplus. Subsequently, when the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the 'Act') was amended in 1973 with retrospective effect from 01.09.1970, the matter was again taken up and again the proceedings were concluded in the similar manner. Thus, the petitioners were not aggrieved. But all of a sudden, without notice to the petitioners, by the impugned order dated 02.01.1987, the Sub-divisional Officer took the file and passed orders drastically reducing the number of units that were allotted to the petitioners earlier and, consequently, substantial



- 3 -

lands, which were otherwise held to be within the entitlement, were declared surplus.

The short point for consideration is as to what is the authority of the Sub-divisional Officer to reopen the matter. Learned counsel for the State with reference to the counter affidavit states that the reopening was done pursuant to the powers conferred on the Collector of the District under Section-45 B of the Act but, in support thereof, no order nor any reference to any order or proceedings has been given. Thus, it cannot be so accepted. Even a perusal of the order of the Sub-divisional Officer does not show as to under what authority he suddenly took up the proceedings and changed the orders. Thus, I have no hesitation in holding that the order passed by the Sub-divisional Officer dated 02.01.1987 is wholly without jurisdiction and cannot be sustained.

There is yet another reason for holding that the order of the Sub-divisional Officer is bad and ineffectual. It is well settled that no order can be passed by any authority, may it be the judicial, quasi judicial or administrative authority, which has adverse consequences on any person without notice to the said person. Here, it is apparent that all of a sudden a concluded proceeding was taken up and, on the same day, without notice to



- 4 -

anybody, the Sub-divisional Officer passed the final order drastically cutting and thereby reducing the number of units. The said order is being in violation of the principles of natural justice and affecting the right of parties is *void-ab-initio*. That being so, the order of the Sub-divisional Officer dated 02.01.1987 being void, all subsequent proceedings and notifications based thereon and emanating therefrom are also bad and cannot be sustained. The order of the Sub-divisional Officer and all consequential orders in the said ceiling proceedings including the notification being issued thereafter are consequently quashed.

Accordingly, this writ application is allowed.

(Navaniti Prasad Singh, J.)

Trivedi/NAFR

U			
---	--	--	--