

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3575 of 1997

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1. Shovanand Jha
2. Devanand Jha
3. Daya Nand Jha
Sons of Late Bauey Jha,
Residents of Village- Narayan Patti, Police Station- Raj Nagar, District-
Madhubani. Petitioners

Versus

1. The State of Bihar
2. Member, Board of Revenue, Bihar, Patna.
3. The Collector, Madhubani,
4. The D.C.L.R., Madhubani.
5. The S.D.O., Sadar, Madhubani
6. Circle Officer, Rajnagar, Madhubani.
7. Circle Officer, Khajauli, Madhubani
8. Circle Officer, Babubarhi, Madhubani
9. Circle Officer, Andhrathadhi, Madhubani
10. Circle Officer, Basopatti, Madhubani Respondents

with

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Civil Writ Jurisdiction Case No. 11560 of 2008

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1. Ram Chandra Jha
2. Harish Chandra Jha
3. Bijay Chandra Jha
4. Yugal Chandra Jha
All sons of Mahanand Jha, resident of Village- Narayan Patti, Police Station-
Raj Nagar, District- Madhubani Petitioners

Versus

1. The State of Bihar through the Secretary, Department of Revenue and Land
Reforms, Secretariat, Patna.
2. The Collector, Madhubani
3. The Sub-Divisional Officer, Madhubani.
4. The Dy. Collector, Land Reforms, Madhubani. Respondents

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Appearance :

(In CWJC No. 3575 of 1997)

For the Petitioner/s : Mr. Gajendra Kumar Jha
For the Respondent/s : Mr. Rajiv Kumar Singh, GP-2

(In CWJC No. 11560 of 2008)

For the Petitioner/s : Mr. Gajendra Kumar Jha
Mr. Sushil Kumar Jha
Mr. Abhay Kumar Jha
Mr. Suryakant Mishra
For the Respondent/s : Mr. Sanjay Kumar, Ac to G.A.-12

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 21-05-2015

Both the writ applications are taken up together for hearing.

C.W.J.C. No. 3575 of 1997

The instant writ application is preferred against the order dated 17.07.1996, passed by the Collector, Madhubani in Ceiling Appeal No. 08 of 1995-96 affirming the order dated 05.12.1995, passed by the Sub-Divisional Officer, Sadar, Madhubani in Ceiling Case No. 1-4 of 1973-74, passed under Section 10(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus) Land Act, 1961 (hereinafter referred as 'the Act') as well as the order dated 22.08.1995, passed by the Sub-Divisional Officer, Sadar, Madhubani in Ceiling Case No. 1-4 of 1973-74, passed after remand from this Court in vide C.W.J.C. No. 977 of 1992.

2. The facts of the case in short is that late Bauey Jha had five sons, namely, late Mahanad Jha, late Laxman Jha, Sovanath Jha, Devanand Jha and Dayanand Jha, who constituted a joint Hindu family unit. Late Bauey Jha owned about 625 acres of land in different Anchals in the district of Madhubani, namely, Rajnagar, Khajauli, Babu Barhi, Basopatti and Andhrathadhi.

3. The three petitioners of C.W.J.C. No. 3575 of 1997, namely, Sovanath Jha, Devanand Jha and Dayanand Jha are the sons of late Bauey Jha. An intervention application has been filed by

the heirs of Laxman Jha, another brother of these three petitioners. It may not be out of context to point out at this stage that the petitioners of connecting writ application i.e. C.W.J.C. No. 11560 of 2008 are also the sons late Mahanand Jha, who was another brother of petitioners of C.W.J.C. No. 3575 of 1997.

4. Coming to the facts, the case has a chequered history and it is not relevant to go into all the details. It would be suffice to mention that the petitioners of C.W.J.C. No. 3575 of 1997 were allowed additional 2 units vide notification issued under Section 11(1) read with Section 15(1) of the Act. Similarly certain units were granted to other co-sharers.

5. In short a Ceiling Case No. 1/4 of 1973-74 was started in the year 1973 and the land-holders were noticed to file their returns. On 03.08.1973, a joint return was filed giving the details of land.

6. Being aggrieved, the petitioners and others filed an appeal, which was dismissed. They then filed revision, which too met with the same fate, as appeal. Thereafter, the petitioners filed writ petition bearing C.W.J.C. No.977 of 1992. In the writ petition, it was noticed that Laxman Jha, father of petitioner nos. 6 and 7 therein, died and there was no substitution in his place, though the same was mandatory under Section 45(C) of the Act. The learned Division

bench as such remanded the matter for fresh consideration after issuing notice to the heirs of Laxman Jha. On remand, the case was considered and even additional two units granted to them were annulled.

7. Being aggrieved, Sovanand Jha, Devanand Jha and Dayanand Jha, all sons of Bauey Jha, have filed this writ application. The grievance of the petitioner is founded on the ground that against grant of additional two units under Section 11(1) read with Section 15(1) of the Act, no appeal was preferred by the official respondents. On the other hand, the petitioners being aggrieved preferred appeal and revision.

8. The petitioners submit that no order further reducing the additional units granted to them can be passed in appeal and revision preferred by them. The respondents at the most may not have granted more units but certainly they could not reduce the units, which were granted to them in absence of any appeal or revision filed by them (State respondents).

9. In support of their submissions, the petitioners relied upon a decision of the Hon'ble Apex Court in case of Choudhary Sahu (Dead) by Lrs. Vs. State of Bihar and Others, reported in A.I.R. 1982 SC 98 and Ujagar Singh & Others Vs. State of Punjab and Others, reported in (1996) 5 SCC 496.

10. In my view, the aforesaid decisions fully support the stand of the petitioners.

11. It is not in dispute that it is the petitioners, who had preferred appeal, revision and writ application against grant of lesser number of additional units under Section 11(1) read with Section 15(1) of the Act. The State has not preferred any appeal or revision. The High Court on application of the petitioners had remanded the matter, as the proceeding in appeal and revision continued without substituting the heirs of Laxman Jha, who had died. The remand was for hearing the matter afresh for substituting the heirs of Laxman Jha. The remand in nut shell was to consider once again whether petitioners have made out a case for grant of any further units other than two additional units granted to them. The interest of the interveners is only to the extent that no order contrary to their interest is passed, as the proceeding against them has attained finality.

12. This Court is only considering the case of the present petitioners' vis-à-vis as orders passed by the respondents. This Court has not expressed any view with respect to the rights of the interveners.

13. Having regard to the facts and circumstances of the case, the matter is remanded to the appellate authority (respondent no.3) for fresh considerations.

C.W.J.C. No. 11560 of 2008

14. All the four petitioners are sons of Mahanand Jha and grand son of late Bauey Jha, who owned about 626 acres of land.

15. Learned counsel submits that earlier five units were granted to them but subsequently the same has been cancelled by the Sub-Divisional Officer and affirmed by the Collector even without giving an opportunity of hearing.

16. Learned counsel for the petitioners submits that the units granted to them were cancelled on pretext of a pending contempt proceeding. Learned counsel submits that in contempt proceeding, there is no order of this Court that the petitioners' units should be cancelled without even providing an opportunity of hearing to them.

17. The submissions of the petitioners are well founded. The impugned order cancelling the units of the petitioners is set aside. The matter is remitted for fresh consideration before authority concerned.

(Samarendra Pratap Singh, J.)

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