

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7904 of 1995

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1 Kapil Deo Singh
2 Jagannath Singh
3 Ganesh Singh, sons of late Budhan Singh
4 Ashok Singh
5 Sanjay Singh
6 Hare Ram Singh
7 Manoj Singh
8 Ajit Singh, sons of Sri Ganesh Singh, residents of Village – Madhruapur, PS – Teghra, District – Begusarai, at present residing at Barahpur, PS – Mokamah, District - Patna

.... Petitioner/s

Versus

1 State of Bihar through the Commissioner –cum- Secretary, Department of Land Reforms, Government of Bihar, Patna
2 Collector –cum- District Magistrate, Begusarai
2A Collector –cum- District Magistrate, Muzaffarpur
3 Anchal Adhikari, Teghra, District – Begusarai
4 (A) Lallan Pd Singh
(B) Hira Pd Singh
(C) Dhruv Narain Singh
(D) Prem Kr Singh
(E) Vijay Kr Singh, sons of Badyanath Pd Singh and Nunumati Devi, Village – Rahua Rajaram, PS – Sadar, Anchal – Mushahari, District - Muzaffarpur

.... Respondent/s

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For the Petitioner/s : M/s Banwari Sharma, Sahjanand Sharma & Arbind Kumar No 2, Advocates

For the Respondent/s : Mr Kamlesh Kishore, AC to GP II

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 23-07-2015

Heard Shri Banwari Sharma, learned counsel in support of the writ petition and the learned counsel for the State. Perused the writ petition and the counter affidavit filed by the State. In opinion of this Court, this writ petition appears to be misconceived.

2 It appears that there was a land ceiling proceeding being Ceiling Case No 80 of 1973-1974 which was originally in the district

of Muzaffarpur. It contained certain lands of the landholder which were situated at Teghra in the district of Begusarai. It is pursuant to orders passed in those proceedings that upon declaration of surplus land of the landholder including the land in question at Teghra that Land Distribution Case No 3 of 1991-1992 was started at the instance of Additional Collector, Begusarai and the Anchal Adhikari was directed to distribute the lands. It is those orders which are impugned in Annexure 2 and those orders were passed in the year, 1991.

3 In substance, what the petitioners challenge is that they had purchased the land from the landholder in the year, 1988 with a declaration that they were free from ceiling. Having purchased, mutation of petitioners' names were also made in the revenue records. It is then that they came to know about the steps to distribute the land treating it to be ceiling surplus. Annexure 4 to this writ petition is an order passed by this Court in *CWJC No 7769 of 1993* at the instance of Lallan Prasad Singh and others. It relates to the same land. Lallan Prasad Singh and others are the heirs of the landholder. Annexure 4, which is dated 26.06.1995, shows that this order set aside the final notification issued declaring the aforesaid lands to be ceiling surplus land and directed the authorities to reconsider the matter after taking into account the option given by the landholder.

4 If this be the position then there was no notification declaring land to be surplus land under the Bihar Land Reforms

(Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (For brevity, *the Act*) and if that be so then automatically, orders, which were passed way back in the year, 1991 (Annexure 2) which is impugned in this writ petition, stood withdrawn upon cancellation of the final notification under Section 15 (1) of the Act.

5 It is for this reason that this Court holds that the writ petition is misconceived. It seeks to challenge an order which has ceased to operate in view of order of this Court, as contained in Annexure 4.

6 In fairness to the learned counsel for the State, I may refer to the counter affidavit which is sworn by the Circle Officer, Teghra, District – Begusarai which shows that the distribution was being made pursuant to order dated 27.12.1991 upon declaration of lands to be ceiling surplus.

7 In view of what has been noted above and, in particular, in view of order as contained in Annexure 4 to the writ petition, the stand taken in the counter affidavit being in ignorance of the order of this Court, as contained in Annexure 4, is of no avail.

8 Thus, this writ petition, with the aforesaid observation, stands disposed of.

(Navaniti Prasad Singh, J)

M.E.H./-

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