

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.67 of 2015
IN
Civil Writ Jurisdiction Case No. 245 of 2014**

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1. Sushil Kumar Mehta,
2. Chandra Bhushan Mehta,
Both sons of late Mehar Chandra Mehta, R/o. Village- Malladih, P.O. Malladih,
P.S. Barhara, District- Purnea (North Bihar).
..... Appellant/s

Versus

1. The State of Bihar through the Collector of District Purnea (North Bihar).
2. The Collector of District Purnea at Purnea.
3. The Anchal Adhikari/The Circle Officer, Anchal/P.S. Dhamdaha Anchal
Barahar Kothi, District- Purnea.
4. The Sub Registrar, Dhamdaha, District- Purnea.
..... Respondent/s

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Appearance :

For the Appellant/s : Mr. Brij Mohan Kumar Singh, Advocate.

For the Respondent/s : Mr. Manoj kr. Ambastha, GP-14

Mr. Subodh Kumar, AC to GP-14

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)

Date: 28-01-2015

This appeal has been preferred against the order, dated 14.07.2014, whereunder, while a writ petition made, under Article 226 of the Constitution of India, by the appellants herein, which had given rise to CWJC No. 245 of 2014, has not been allowed, liberty has been given to the appellants to make appropriate application under Section 45B of the Land Ceiling Act, 1961.

We have heard Mr. Brij Mohan Kumar Singh, learned Counsel, appearing on behalf of the appellants, and Mr. Subodh Kumar, learned Assistant Counsel to Government Pleader No.14, appearing on behalf of the State-respondents.

Upon perusal of the materials on record including the order, under appeal, we find that the dispute, which has arisen between the parties concerned, is a dispute involving questions of fact as well as law and, so far as facts are concerned, all the facts have not been admitted. This apart, plot of land, which form the subject matter of controversy in the writ petition, was, according to the admitted case of the parties concerned, included in a proceeding, which was initiated by taking recourse to Section 11 of the Land Ceiling Act, 1961, which culminated into a declaration, made, on 18th July, 1990, that some parts of the land covered by the land ceiling proceedings, were surplus-land and, in course of time, the surplus land, according to the State-respondents has already been settled by others.

It is, however, strongly contended, on behalf of the appellants, that the predecessor-in-interest of the appellants had not been given notice of the said Land Ceiling Proceedings; otherwise, he would have been able to defend and present his case appropriately and, in that event, the harassment, caused to the appellants by denying their title and right to possess the land, could have been avoided.



Be that as it may, since writ petition involves discrimination of disputed question of fact, learned single Judge was wholly correct in declining to enter into making roving enquiry, in a writ proceeding and settle disputed questions of fact. Learned single Judge has also given the liberty to the appellants to make necessary application, under Section 45B of the Land Ceiling Act, 1961.

We find no infirmity, legal or factual, in the conclusions reached by the learned single Judge and/or in the direction(s) given thereof.

It has been submitted, on behalf of the appellants, that the appellants will, now, make necessary application, under Section 45B of the Land Ceiling Act, 1961, and if such an application is made, the same may be directed to be expeditiously dealt with and disposed of in accordance with law.

Because of what have been discussed and pointed out above, while not admitting this appeal and dismissing the same, we make it clear that in case the writ petitioners-appellants make an application, under Section 45B of the Land Ceiling Act, 1961, the respondents/authorities concerned shall expeditiously deal with the matter and conclude the proceeding, in accordance with law, preferably within a period of six months from the date of making of the application as indicated hereinbefore.

With the above observations and directions, this appeal shall stand disposed of.

No order as to costs.

(I. A. Ansari, J.)

(Chakradhari Sharan Singh, J.)

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