

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8314 of 1997

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Kailash Singh son of late Saukhi Singh Resident of village-Dayalpur Garh,
P.S.Hajipur Sadar, P.O. Dayalpur Garh, District Vaishali

.... Petitioner

Versus

1. The State of Bihar
 2. Shri G.L. Yadav, Collector, Vaishali
 3. Indra Bhushan Singh son of Upendra Rai.
 4. Tilakdhari Rai, son of Dasai Rai.
 5. Parmanand Rai @ Dangar Rai son of Bhanak Rai
- All respondent nos. 3 to 5 resident of village Randaha, P.O. Lakhani, P.S.
Rajapakar, District Vaishali.

.... Respondents

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Appearance :

For the Petitioners : Mr.Kesav Srivastav, Sr. Advocate
Mr. Bhubneshwar Pd., Advocate.

For the State : Mr Kamlesh Kishore AC to GP2

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 23-04-2015

Heard learned counsel for the petitioner and the State.

The petitioner executed sale deeds in the year 1972, 1974 and 1977 without obtaining permission therefor under Section 5 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (for short 'the Act'). He was thus proceeded against under Section 32 of the Act on the ground that the sales were effected after the lands were notified under Section 3 of the Act inasmuch as land register and statement of principles were also published/notified and since there was no de-notification under Section 26(A) of the Act, the petitioner was entitled to be fined.

Mr. Srivastava, learned counsel for the petitioner,

relying on Ramjanam Singh and ors. Vs. State of Bihar and Ors since reported in 2001(4) PLJR 531 submits that from the report submitted by the Consolidation Officer (Annexure-1) it would appear that publication of land register was made between 31.5.1974 to 29.6.1974 whereas statement of principles as required under Section 9 of the Act was made between 2.6.1982 to 4.6.1982. Relying on the aforesaid judgment, it has been contended that until and unless both the requirements are present the permission for alienation of land would not be necessary. On going through the facts of Ramjanam Singh (supra) this Court finds that in similar circumstances the imposition of fine by the Collector was challenged before the Court. A Division Bench of this Court having found that both the situations were not present when the sale(s) were effected set aside the order of the Collector. In the light of the submissions made by Sri Srivastava and the ratio laid down in Ram Janam Singh (Supra), this Court is satisfied that the order passed by the Collector impugned in the present writ application merits to be interfered with.

Writ application is allowed. The order dated 24.2.1997/7.7.1997 passed by the Collector, Vaishali imposing fine is set aside.

No order as to costs.

(Kishore Kumar Mandal, J)

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