

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9932 of 1995

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1. Basant Kumar Singh son of late Ram Pravesh Singh
 2. Raj Kumar Singh son of late Kashi Singh
 3. Sharda Nand Singh son of late Awadhesh Singh
 4. Ram Sakal Singh son of late Ram Prasad Singh
 5. Narendra Singh son of late Pradip Singh
 6. Kameshwar Singh son of late Chandradip Singh. All of village Sultanpur (West), P.S. and Anchal Mohiuddin Nagar, District - Samastipur
- Petitioner/s

Versus

1. The State of Bihar through the Collector, Samastipur
 2. The Additional Collector, Samastipur
 3. The Additional Collector (Ceiling), Samastipur
 4. The Sub-Divisional Officer, Patori, District – Samastipur
 5. The Circle Officer, Mohiuddin Nagar
 6. Marahaja Bibhuti Narain Singh son of Late Adhitya Narain Singh of Banaras Estate. Presently residing at Samastipur, Magardahi, Samastipur
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Mahesh Prasad-2, Advocate

For the Respondent/s : Mr. Din Bandhu Singh, GP-9

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 30-07-2015

None appears for the petitioners. Same was the position on 16.07.2015, 23.07.2015 when this Court requested Sri Mahesh Prasad No.2, Advocate to obtain photo copy of the brief and appear on behalf of the petitioners. Accordingly, Sri Prasad having obtained the brief has appeared and made submissions on behalf of the petitioners.

2. Petitioners are the landholder, whose lands have been acquired under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter



referred to as the Act) vide Samastipur District Gazette bearing No. 51 dated 19.05.1995, Annexure-1 pursuant to Land Ceiling Case No. 76 of 1990-91/ 26 of 1991-92. Close perusal of the aforesaid Gazette indicates that the lands acquired have been treated to be the lands of Marahaja Bibhuti Narain Singh of Banaras Estate.

3. It is submitted on behalf of the petitioners that aforesaid land ceiling case was initiated against Marahaja Bibhuti Narain Singh in which his Manager, Sri Raj Kishore Thakur filed petition dated 19.11.1993, Annexure-4 asserting that the landholder is ready to voluntarily surrender 400 bighas of land in favour of the State. In appreciation of the assertion made by the Manager in the aforesaid petition dated 19.11.1993, Annexure-4, Additional Collector, Samastipur closed the land ceiling proceedings initiated against Marahaja Bibhuti Narain Singh of Banaras Estate under order dated 19.11.1993, Annexure-5 holding that after aforesaid surrender, landholder possess only 5 acres of land, which is muchless than his entitlement under the Ceiling Act. It is further submitted that even prior to the passing of the order dated 19.11.1993, Annexure-5, 400 bighas of land belonging to Marahaja Bibhuti Narain Singh had already been distributed, which would appear from the order dated 27.03.1992 passed in Case No. 27 of 1979-80/ 26 of 1991-92, Annexure-6. It is also submitted that after closure of the aforesaid



ceiling proceeding, a mischief was made by one Sri Surju Mahto and 197 residents of Bind Toli, who filed petition before the Circle Officer, Mohiuddin Nagar claiming 453.65 acres of surplus land is still left with Marahaja Bibhuti Narain Singh, which is required to be distributed. In the light of the petition filed by Surju Mahto and 197 residents of Bind Toli, an enquiry was conducted by the Circle Officer, Mohiuddin Nagar, who submitted report contained in Letter No. 92 dated 29.04.1995, Annexure-7/1 to the Additional Collector, Samatipur stating that 435.65 acres of surplus land is still left with Marahaja Bibhuti Narain Singh, which is required to be distributed amongst the landless persons. In the light of the report dated 29.04.1995, Annexure-7/1, Additional Collector reopened the ceiling proceedings initiated against Marahaja Bibhuti Narain Singh which was dropped under order dated 19.11.1993 and notice bearing No. 94 dated 22.05.1995, Annexure-7 issued to Marahaja Bibhuti Narain Singh to show cause as to why 453.65 acres of surplus land be not acquired.

4. It appears, Marahaja Bibhuti Narain Singh did not submit reply to the notice dated 22.05.1995 that the lands in question belong to erstwhile Narhan Estate and transferred in favour of the forefathers of the petitioners herein by three registered sale deed bearing Nos. 2074, 2075 and 2076 dated 23.04.1948 whereunder 52



bighas of land was sold in favour of the father, grandfather or great grandfather of the petitioners. It also appears that 21 bighas 6 kathas of aforesaid land was settled in favour of the petitioners' father, grandfather or great grandfather by the proprietor of Narhan Estate in the year 1945 and since 1945 petitioners' father, grandfather or great grandfather have remained in possession of those lands and have also paid rent for the same.

5. From the case of the petitioners noted above, it is evident that the lands which became the subject matter of the impugned acquisition under Section 15(1) of the Act vide District Gazette dated 19.05.1995, Annexure-1 were acquired by the petitioners' father, grandfather or great grandfather through three registered sale deeds dated 23.04.1948 from Narhan Estate or through settlement in the year 1945, as such, could not have been acquired as surplus land of Marahaja Bibhuti Narain Singh under impugned Gazette dated 19.05.1995.

6. Having held as above, I have no option, but to quash the acquisition made under Gazette notification dated 19.05.1995, Annexure-1, which is quashed to the extent which is the subject matter of the three registered sale deeds dated 23.04.1948 and the settlement made prior thereto in the year 1945 in favour of father, grandfather and great grandfather of the petitioners.

7. The writ petition is, accordingly, disposed of.

8. Sri Mahesh Prasad No.2, Advocate shall be entitled for fees from the Patna High Court Legal Services Committee, as he has rendered assistance in disposal of this case at the request of the Court.

9. Let a copy of this order be forwarded to the Secretary, Patna High Court Legal Services Committee for necessary compliance of this order within a reasonable time, not exceeding one week.

(V.N. Sinha, J.)

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