

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7848 of 2000

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1 Neelam Devi, wife of Madhusudan Mani Tripathi, resident of Vilalge-Kadawar, P.O. & P.S.- Rdhauli, District- Basti (U.P.)
2 Binoy Kumar Mishra, son of Late Adya Mishra,
3 Rameshwar Pd. Mishra @ Ramesh Mishra, son of Late Adya Mishra
4 Dinesh Prasad Mishra @ Dinesh Mishra, son of Late Adya Mishra.
All residents of Village- Naraipur, P.S.- Bagaha, District- West Champaran.

.... Petitioners

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Additional Collector (Ceiling), West Champaran, Bettiah.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. NARMADESHWAR JHA

For the Respondent/s : Mr. S.A.ALAM (SC,CEILING)

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 09-07-2015

The petitioners pray for quashing the resolution dated 15.03.2000, passed by the Additional Member, Board of Revenue in Case No. 23 of 1997, affirming the order dated 28.02.1997, passed by the Collector, West Champaran in Ceiling Appeal bearing R.A. No. 37 of 1995-96 and order dated 18.10.1994 passed by the Additional Collector in Ceiling Case No. 59 of 1976.

A Land Ceiling case bearing L.C. No. 59 of 1976 was instituted against Adya Prasad Mishra. The Ceiling proceeding was disposed of on 18.10.1994 granting two units (one each Adya Prasad Mishra and his elder son Binay Kumar Mishra) and one additional unit to the four minors of landholders family. The case was again reopened on 17.05.1982 under Section 45B of the Act and the Ceiling

authorities again found no surplus land. Necessary notification was published on 28.03.1983. Again the proceeding was reopened on 22.08.1985 under Section 45B of the Act and this time only 13/10 units were given to the entire family of the petitioners.

It is relevant to state that no unit was given to Binoy Kumar Mishra. Being aggrieved, Binoy Kumar Mishra filed writ application, which was allowed. No unit was given for the minor children and 1.61 acres of land were declared surplus.

It appears that the respondent did not allow any surplus land on the ground that one of the daughters, namely, Neelam Devi, was married on appointed day.

Learned counsel submits that even three acres of land given to the mother of Neelam Devi in turn by her mother in gift has also wrongly been clubbed by calculating the total land of the landholder.

In my view, the land exclusively given in favour of Neelam Devi, which is coming from her maternal grandmother, would not have been included while calculating the same.

In this view of the matter, the writ application is allowed. The impugned orders are set aside to the effect that 1.61 acres of land was wrongly held as surplus land of the family of the petitioners.

(Samarendra Pratap Singh, J.)

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