

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9784 of 2012

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Harsh Kumar, Son of Late Jyoti Prasad Singh, Resident of Mohalla - K.M. Tank,
Police Station - Laheriasarai, District- Darbhanga

.... Petitioner

Versus

1. The State of Bihar
2. The Deputy Secretary to the Government, Department Of Revenue and Land Reforms, Government of Bihar, Patna
3. The Collector, Darbhanga
4. The Additional Collector

.... Respondents

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Appearance :

For the Petitioner/s : M/s Baidyanath Thakur, Shankar Thakur

For the Respondent/s : Mr. Ashok Kumar Choudhary, AAG 13

M/s Akshansh Ankit, Shailendra Jha

AC to AAG 13

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-01-2015

The petitioner filed declaration as required under the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act'). An extent of about 100 acres was held to be in excess of ceiling limit and the possession thereof has been taken by the Government in accordance with the provisions of the Act and the Rules made thereunder.

The Act provides for payment of compensation for the surplus land. The grievance of the petitioner is that though the possession of the land was taken way back in the year 1976, compensation has not been paid so far. An order was passed by this

Court, the District Magistrate, Darbhanga passed an order dated 10.10.2011 (Annexure-9) determining the compensation to be at Rs.46,597.67p. The said order is challenged in this writ petition. It is pleaded that classification of the land as per the Schedule to the Act is necessary for determination of compensation and without undertaking such classification the compensation was fixed. Another grievance of the petitioner is about adequacy of interest awarded to him.

Heard Mr. Baidyanath Thakur, learned counsel for the petitioner and Mr. Ashok Kumar Choudhary, learned AAG 13 for the respondent-authorities.

We would have certainly examined the matter in detail with reference to the provisions of the Act and the Rules but for the fact that the petitioner has an effective alternative remedy, in the form of appeal before the Commissioner under Section 30 of the Act. The appellate authority is well suited in matters of this nature. He can call for the record and examine the matter in detail. If he finds that the classification of the land was not done, either he can pass appropriate order requiring the concerned authorities to undertake such an exercise or he can classify the land by himself, by referring to the relevant provisions of law. When such is the facility, it is better that the petitioner avails the alternative remedy. Since the matter is pending for the past more than four decades it needs to be paid immediate attention.

Hence, we dispose of the writ petition leaving it open to the petitioner to avail the remedy of appeal. If the appeal is presented within nine weeks from today, it shall be entertained without raising any objection as to the limitation. It shall be open to the petitioner to urge all the grounds available to him in law. The appellate authority shall take up the matter and dispose of the same

within four months from the date of filing of the appeal.



mrl

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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