

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.601 of 2015

In

Miscellaneous Jurisdiction Case No. 383 of 2015

Sri Abhay Kumar Singh, aged about 37 years, Son of S.D. Singh, R/O.-
D.M. Residence, Gandhi Maidan, Patna, P.O. Gandhi Maidan, P.S. Gandhi
Maidan, District Patna, presently Collector, Patna.

.... Appellant

Versus

Smt. Meira Kumar, wife of Manjul Kumar and daughter of Late Indrani
Devi and late Hon'ble Jagjivan Ram, former Deputy Prime Minister of
India, Govt. of India. Presently residing at D-1029 Friends Colony, P.O. and
P.S. New Friends' Colony, New Delhi- 110 025

----Respondent 1st Set

1. The State of Bihar
2. The State of Bihar, through the Chief Secretary, Government of Bihar,
Old Secretariat, Patna.
4. Sri Anjani Kumar Singh, the Chief Secretary, Govt. of Bihar, Old
Secretariat, Patna.
5. Sri Vyas Ji, Principal Secretary, Department of Revenue and Land
Reforms, Govt. of Bihar, Old Secretariat, Patna.

.... Respondent 2nd Set

Appearance :

For the Appellant : Mr. Anjani Kumar, Sr. Advocate
Mr. Sunil Kumar, Advocate
For Respondent 1st Set : Mr. Sarvendra Kumar Verma, Advocate
Mr. Jai Vardhan Narayan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 22-04-2015 This Letters Patent Appeal is filed against the order
dated 25.3.2015 passed by the learned single Judge in M.J.C.
No.383 of 2015.

The facts leading to the filing of the appeal are as under:

Jambandi No.1789 was recorded in respect of Plot
No.1220, Khata No.769, Mauja- Mainpura, District-Patna in



favour of certain persons. Through order dated 7.5.1985, the Collector, Patna cancelled the Jamabandi by assigning certain reasons. That was challenged in two separate writ petitions. CWJC No.4685 of 1985 was filed by Harendra Kumar and CWJC No.4071 of 1986 was filed by Smt. Indrani Devi, mother of respondent 1st set herein. One of the contentions advanced in the writ petition was that unless the proceedings under Section 4(h) of the Bihar Land Reforms Act, 1950 (hereinafter referred to as 'the Act') are initiated, Jamabandi cannot be cancelled. Through separate orders dated 18.11.1994, this Court allowed the writ petitions and the order cancelling the Jamabandi was set aside.

The Collector issued notice dated 24.4.2013 under Section 4(h) of the Act. M.J.C. No.994 of 2013 was filed in CWJC No.4685 of 1985 contending that the issuance of notice under Section 4(h) of the Act constitutes contempt of the order in the writ petition. The contempt application (MJC No.994 of 2013) was disposed of through order dated 18.12.2013 observing that it is competent for the Collector to initiate enquiry under section 4(h) of the Act; but he shall take into consideration, the contention of the petitioner therein that the proceeding under that provision is not maintainable under the circumstances stated by him. Similarly, MJC No.2265 of 2013 was filed in CWJC No.4071 of 1986.

Through order dated 2.1.2014, the learned single Judge closed the proceedings by taking note of the fact that the notice was withdrawn, and observing that the Collector shall take into account, the plea that may be raised in response to the notice.

MJC No.383 of 2015 is with reference to MJC No.2265 of 2013 stating that though the notice dated 24.4.2013 was withdrawn, a committee was constituted to enquire into the matter and the same amounts to contempt of the order passed in MJC No.2265 of 2013. The learned single Judge passed the order dated 25.3.2015 directing appearance of the Collector by recording a prima facie finding that the steps taken by the Collector amounts to overreaching the order of the High Court. Hence, this appeal.

Heard Mr. Anjani Kumar, learned Senior Advocate for the appellant and Mr.Sarvendra Kumar Verma, learned counsel for the respondent 1st set.

The genesis of the present appeal has been furnished, in brief, in the preceding paragraphs.

The contempt case, bearing M.J.C. No.383 of 2015, arose out of another contempt case, bearing M.J.C. No.2265 of 2013, filed with an allegation that the order passed in CWJC No.4071 of 1986 was flouted. Therefore, it becomes necessary to understand the actual purport of the order passed in CWJC

No.4071 of 1986.

It has already been mentioned that the said writ petition was filed challenging the order dated 7.5.1985, through which Jamabandi was cancelled. The writ petition was allowed and the order of cancellation was set aside. Nowhere in the order it was mentioned that the respondents i.e., the authorities of the Revenue shall not initiate any proceedings under Section 4(h) of the Act. On the other hand, the petitioner pleaded that it is only after the initiation of the proceedings, that steps can be taken for cancellation of Jamabandi. The relevant portion of the order reads as follows :

“I allow this writ application and quash the order of the Collector, Patna, respondent no.2, dated the 7th May, 1985, as contained in Annexure-1 to this writ application. In the circumstances of the case, there will be no order as to costs.”

The contempt case could have been filed in relation to the order passed in CWJC No.4071 of 1986, if only the respondents sought to rely upon the order of cancellation of Jamabandi or if they sought to resurrect the said order in any manner. That was nobody's case. The only cause of action for the petitioner to file MJC No.2265 of 2013 was the issuance of notice



dated 24.4.2013 under Section 4(h) of the Act. Issuance of that cannot be said to be the contempt of CWJC No.4071 of 1986. Obviously, for that reason, the learned single Judge, who heard MJC No.2265 of 2013, permitted the Collector to proceed with the notice under Section 4(h) of the Act, however, with a rider that the contention of the petitioner must be kept in mind.

If ultimately an order is passed under Section 4(h) of the Act, in favour of or against the petitioner in CWJC No.4071 1986, that would constitute the subject-matter of a separate writ petition but not of contempt case at all. Admittedly, no final order under Section 4(h) was passed so far. For all practical purposes, the contempt cases are being filed only to stall the proceedings under Section 4(h) of the Act. We find that neither the order passed in MJC No.2265 of 2013 nor in the present contempt application being MJC No.383 of 2015 have any bearing over the order in CWJC No.4071 of 1986.

We, therefore, allow the appeal and set aside the order dated 25.3.2015 passed by the learned single Judge in M.J.C. No.383 of 2015. We direct that the proceedings in MJC No.383 of 2015 shall stand terminated.

We, however, leave it open to the respondents herein to pursue the remedy vis-a-vis the proceedings under Section 4(h) of

the Act, depending upon the stage thereof.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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