

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2562 of 2015

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1. Parwej Alam Son of Late Md. Afroz Alam
2. Qaisar Raza Son of Late Md. Afroz Alam
3. Abu Bakar Son of Late Md. Afroz Alam
4. Abu Quamar Son of Late Md. Afroz Alam
5. Abu Mahar Son of Late Md. Afroz Alam
6. Suraiya Jabin Wife of Late Md. Afroz Alam, all residents of village - Nandania, Police Station - Routa, Anchal - Baisa, District - Purnia

.... Petitioner/s

Versus

1. The State of Bihar
2. The Minister, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The Collector of the district Purnia null null
4. The Sub-Divisional Officer, Baisi within the district of Purnia
5. The Deputy Collector, Land Reforms at Baisi within the district of Purnia
6. The Anchal Adhikari at Baisi within the district of Purnia
7. Jharu Marandi Son of Jahadu Marandi
8. Misri Besra Son of Mangal Besra
9. Rabi Tuddu Son of Kandan Tuddu
10. Dhanu Tuddu Son of Kundan Tuddu
11. Jhalwa Soren Son of Mohan Soren
12. Dulla Besra Son of Mangal Besra
13. Baisagu Lal Harijan Son of Jhari Lal Harijan
14. Ramesh Lal Harijan Son of Dina Lal Harijan
15. Ardesb Kumar Ray Son of Andharu Harijan
16. Bacha Lal Harijan Son of Sohri Lal Harijan
17. Jhari Lal Harijan Son of Sona Lal Harijan
18. Koche Kisku Son of Japla Kishku No. 7 to 18 resident of village - Nandania, Police Station - Routa, District - Purnia
19. Dhanu Devi Wife of Baldeo Paswan
20. Laxmin D/o Balo Paswan
21. Uttam Paswan Son of Patlu
22. Asha Paswan W/o Muni Lal Paswan
23. Juwalal Paswan Son of Baldev Paswan
24. Muni Lal Paswan Son of Darogi Paswan
25. Rati Lal Paswan Son of Baldev Paswan No. 19 to 25 residents of village - Kursamani, Police Station - Routa, District - Purnia
26. Dhrupatiya Devi D/o Musharu Ram
27. Suresh Ram S/o Dukhi Ram
28. Taramani Devi D/o Sanno Lal Ram
29. Aghanu Lal Ram S/o Paltu Ram null
30. Ram Lal Ram S/o Dasai Lal Ram
31. Sukhdeo Lal Ram S/o Gonar Ram
32. Mahadev Ram S/o Satanu Ram No. 26 to 32 residents of village Mirpur, Police Station - Routa, District Purnia
33. Mahadev Harijan S/o Gadu Harijan
34. Bacha Lal Harijan S/o Fulwas Harijan No. 33 and 34 residents of village - Sonamani, Police Station - Routa, District - Purnia
35. Sanjha Devi D/o Ram No. 35 resident of village - Mijgawan, Police



Station - Routa, District - Purnia

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate
Mr. Binay Kumar Singh, Advocate
For the Respondent/s : Mr. Ajay, GA XII
Mr. Pratik Kumar Sinha, AC to GA XII

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 06-08-2015

Heard the parties.

2. The petitioners, six in number, who claim to be the heirs and legal representatives as also the second donees of the landholder Haji Sheikh Mohammed Sajidul Haque, have approached this Court in the present proceeding filed under Article 226 of the Constitution of India for a direction to the respondent no.2 to dispose of Misc. Land Ceiling Case No. 06 of 2011 filed under Section 45 B of the Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, "the Land Ceiling Act") at an early date and for grant of other incidental relief.

3. Learned counsel for the petitioners submits that the lands in question claimed by the petitioners were originally gifted by the original landholder Haji Shiekh Mohammad Sajidul Haque on 18.08.1962 to his son Afroz Alam. The aforesaid Afroz Alam, the first donee is said to have gifted the lands in question in favour of the petitioners on 21.03.1972. Therefore, according to him, despite aforesaid valid gifts, the lands in question have illegally been declared surplus treating the same to be that of the original landholder.

4. The grievance of the petitioners is that even as per



notification issued under Section 15 (1) of the Land Ceiling Act, the lands situate at Mauza Sahariya in the district of Purnea, which were originally belonging to the original landholder, were not declared surplus and were not acquired by the State Government, yet by notices contained in Annexure-5 series, the lands of Mauza Sahariya have been distributed in favour of the private respondents. It is contended that unless and until, the lands of Mauza Sahariya belonging to original landholder are declared surplus and are acquired under Section 15 (1) of the Land Ceiling Act, the same cannot be distributed to any of the beneficiary.

5. Though indulgence was granted to the learned State counsel by orders dated 10.02.2015 and 20th July, 2015, yet counter affidavit has not been filed on behalf of the official respondents. However, the learned Government Advocate XII, appearing on behalf of the respondent nos. 1 to 6, on instructions received from them, submits that there appears to be some typing error in the notification (Annexure-3) issued under Section 15 (1) of the Land Ceiling Act, but he fairly conceded that till date that notification has not been corrected.

6. After having heard the parties, this Court is of the opinion that unless and until the lands of Mauza Sahariya belonging to the original landholder are declared surplus in accordance with law and are acquired under Section 15 (1) of the Land Ceiling Act, the same cannot be distributed in favour of the beneficiaries. This Court is further of the opinion that the Misc.Land Ceiling case filed under Section 45 B of the Land Ceiling Act, which is pending since 2011, must be decided expeditiously in accordance with law by the respondent no.2. Apparently, Misc.Land Ceiling Case No. 06 of 2011 was filed on

behalf of the petitioners in the year 2011 under Section 45 B of the Land Ceiling Act, but despite passage of almost four years, no final order has been passed.

7. In above view of the matter, the respondent no.2 is hereby requested to take up the aforesaid Misc.Land Ceiling Case No. 06 of 2011 on priority basis and all endeavours should be made to dispose of the same at an early date preferably within a period of six months from the date of receipt/production of a copy of the present order by a reason and speaking order.

8. Till the aforesaid case is disposed of, the notices as contained in Ananexure-5 series issued by the Circle Officer, Baisa shall be kept in abeyance.

9. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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