IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3604 of 2011

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1. Pramod Kumar Yadav
2. Binod Kumar Yadav @ Binod Yadav,
   Both sons of Late Neba Lal Yadav
3. Rekha Devi wife of Late Kumod Prasad Yadav.

All residents of village- Rangpura, P.S. Dhamdaha, District- Purnea ... . Petitioners

Versus

1. The State of Bihar
2. The Addl. Member Board of Revenue, Bihar, Patna
3. Collector, Purnea
4. Sub Divisional Officer, Dhamdaha, District-Purnea
5. Anchal Adhikari, Dhamdaha, District- Purnea
6. Sachindra Narayan Thakur, son of Dheyani Thakur, resident of village- Rangpura, P.S. Dhamdaha, District- Purnea
7. Mangan Mehtar, son of Kahan Mahtar, resident of village- Rangpura, P.S. Dhamdaha, District- Purnea .... Respondents

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Appearance :
For the Petitioner/s : Mr. Kumar Uday Singh
For the Respondent/s : Mr. AC to SC-14

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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4 22-05-2015 Heard Sri Kumar Uday Singh, learned counsel for the petitioners and learned AC to SC-14.

The petitioners, invoking writ jurisdiction of this Court under Article 226 of the constitution of India, has prayed for quashing of an order dated 27.05.2009 passed in Revision Case no.27/2007 filed under Section 32 of the Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of Surplus Land) Act (hereinafter referred to as “Ceiling Act”). By the said order, Revision application preferred by the petitioners against the order of the Collector, Purnea in Miscellaneous Ceiling Case

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no.135/1994 was rejected by learned Additional Member, Board of Revenue.

Sri Singh, learned counsel for the petitioners submits that the petitioners had purchased the land in question through registered sale deed dated 16.05.1981 and 03.06.1987 and without notice to the petitioners, the land of the petitioners/ vendor was declared as surplus and notification under Section 15(1) of the Ceiling Act was published.

Learned counsel for the petitioners accepts that after the land was declared as surplus, parcha has also been issued to Respondent no.7. He submits that since the land was declared as surplus without notice either to the petitioners or their vendor, they immediately filed a petition under Section 45 (B) of the Bihar Land Ceiling Act for re-opening of the case.

Learned State Counsel has opposed the prayer of the petitioners.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that the petitioners after issuance of notification under Section 15(1) of the Act, which was published on 24.02.1994, filed a petition for re-opening under Section 45(B) of the Act vide Misc.Case no.135 of 1994 before the Collector, Purnea. After filing the petition, no proper Pairvi was made and continuously on five dates, there was non-appearance. Thereafter, the learned Collector rejected the petition, since the petitioners were absent. This order was passed on 02.09.1995. Thereafter for about 12 years, no step was taken and suddenly after lapse of 12 years, a petition was filed under Section 32 of the Bihar Land Ceiling Act before the Member Board of Revenue against the order of the Collector i.e. order dated 02.09.1995. Besides filing the petition, a limitation petition was also filed. Learned Addl. Member Board of Revenue considering the fact that the petitioners slumbered over their right for about 12 years and also the fact that sale deed was of the year 1981 and 1987 did not interfere with the order of the Collector and rejected the same. The Court is of the opinion that once Notification under Section 15(1) of the Act was issued, had there been any interference, the petitioners could have taken immediate steps. Though they filed Misc. Case before the Collector, but they did not pursue the matter. This was the reason for rejection of the petition by the Collector. Once a petition filed under Section 45(B) of the Act preferred by the petitioners was rejected due to non-prosecution, in normal course a petition for restoration was required to be filed, but for about 12 years no step was taken and suddenly after lapse of 12 years an application 32 of the Act was filed. Learned Member Board of Revenue has rightly rejected the application as the petitioners slumbered over their right for about 12 years.

In that view of the matter, I do not find any defect in the order of the learned Member Board of Revenue.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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