

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9512 of 2007

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Jai Kumar Yadav son of Late Mahabir Yadav, resident of village-
Mominpur, Post- Pandaul, Police Station- Sakri, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate/ Collector,
Madhubani, at and P.O.- Madhubani, District- Madhubani.
2. The District Collector Land Reforms, at and P.O. Madhubani, District
Madhubani.
3. The Circle Officer, Rahika Circle, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Jha

For the Respondent/s : Mr. Gautam Bose- AAG-8
Mr. Rohit Mishra

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 07-08-2015 The petitioner claims his right and title over a piece of
land bearing old khesra No. 1702 corresponding to new Khesra
No. 2932 area 5 katha on the basis of sale deed executed in favour
of his father by the Ex. landlord.

Indisputably, a land ceiling case was started against the
Ex. landlord under the provisions of Bihar Land Reforms (Fixation
of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (In
short "Land Ceiling Act"). In that land ceiling case the land in
question was treated to be that of the Ex. Landlord. Against the
draft statement published in the Land Ceiling case, no objection
was filed either by the Ex. Landlord or by the father of the
petitioner disclosing therein about the alleged transfer made by the
Ex. Landlord through a registered sale deed dated 23.08.1970. In
absence of any objection under Section 10(3) of the Land Ceiling
Act, finally the land in question was declared to be surplus,
besides other plots of land under section 11(1) of the Land Ceiling



Act. By a Gazette notification dated 16th April, 1976, brought on record as Annexure-A to the supplementary counter-affidavit filed on behalf of the respondents, the surplus land of the Ex. landlord including the plot in question was acquired under Section 15(1) of the Land Ceiling Act and, therefore, same vested in the State of Bihar free from all encumbrances. Despite issuance of aforesaid Gazette notification way back in 1976 under Section 15(1) of the Land Ceiling Act, the petitioner did not approach the competent authority under the provision of the Land Ceiling Act for exclusion of the land in question.

It appears that after about 30 years Miscellaneous Case No.1 of 2006-07 was filed by the petitioner before the respondent Circle Officer for demarcation of the aforesaid land purchased by his father. The petition filed by the petitioner was completely misconceived and untenable. Therefore, the learned Circle Officer has rightly not passed any order in that proceeding in his favour.

Once the plot in question was declared to be a surplus land of the landlord and was acquired by the State of Bihar in the year 1976, remedy available to the petitioner was to file a petition under Section 9(2) of the Land Ceiling Act for including this land in the unit of the landholder and taking out equal area of land from the lands allotted to the landholder, or he could have filed a petition under Section 45B of the Land Ceiling Act for reopening of the land ceiling case and for getting appropriate relief, but without availing the statutory remedies available to the petitioner he has filed the present writ petition, which, in the considered opinion of this Court, is completely misconceived and cannot be entertained particularly in absence of the landholder as also the parcha holder.

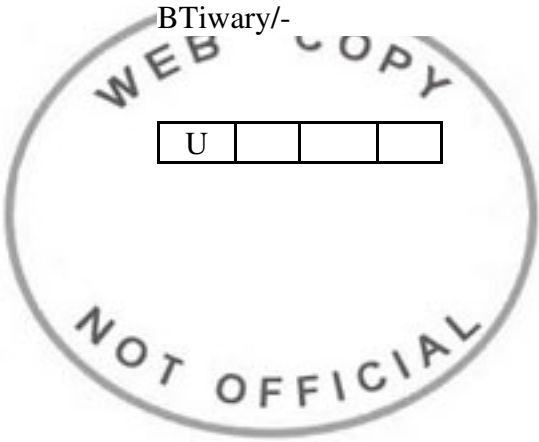
Consequently, the writ petition stands dismissed.

However, the petitioner, if so advised, may avail of the

appropriate remedy under the Land Ceiling Act, as indicated above.

(Birendra Prasad Verma, J)

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