

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18086 of 2012

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1. Girdhari Paswan son of Late Kutay Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 2. Sarandhar Paswan son of Sri Biranchi Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 3. Nachachhatar Paswan son of Late Munni Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 4. Upendra Paswan son of Late Munni Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 5. Ashok Paswan son of Late Munni Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 6. Biranchi Paswan son of Vaishakhi Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 7. Bindeshwari Paswan son of Bhooti Paswan, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 8. Banarsi Mandal son of Late Harchandi Mandal, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
 9. Saryug Baitha son of Late Sukru Baitha, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna
3. The Commissioner, Bhagalpur Division, Bhagalpur
4. District Magistrate, Bhagalpur, District - Bhagalpur
5. The Sub-Divisional Officer, Naugachia, District - Bhagalpur
6. The Deputy Collector, Land Reforms, Naugachia, District - Bhagalpur
7. The Circle Officer, Gopalpur Anchal, District - Bhagalpur
8. Om Prakash Mandal son of Late Naresh Mandal, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur
9. Rajeev Ranjan son of Late Naresh Mandal, resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate
Mr. Rajesh Kumar Pandey, Advocate
For the Respondent Nos. 1 to 7 : Mr. Md. Nadeem Seraj, GP 20
Ms. Shalini, AC to GP 20
For the Respondent Nos. 8 & 9 : Mr. Sanjay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 08-12-2015

Heard the parties.



2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the letter/communication dated 24.11.2011 (Annexure-1) issued by the respondent Anchal Adhikari, Gopalpur, whereby a direction has been sought from the Additional Collector (Land Ceiling), Bhagalpur for cancellation of Parchas (Parwanas) issued to the petitioners with respect to the lands bearing Plot No. 4449 appertaining to Khata No. 1672 of Mauza Tintanga in the district of Bhagalpur and for taking all other consequential actions.

3. It is a common case of the parties that originally Land Ceiling (Surplus) Case No. 1819 of 1973 was started against the original landholder Naresh Mohan Mandal, father of respondent nos. 8 and 9, under the provisions of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, “the Land Ceiling Act”) for the purposes of acquiring surplus lands belonging to him. On conclusion of the aforesaid land ceiling proceeding under the provisions of Land Ceiling Act, 28.57 acres of lands were found to be surplus and accordingly, it was declared as such and finally by a gazette notification dated 01.06.1976 issued under Section 15 (1) of the Land Ceiling Act aforesaid surplus lands were acquired. It is also not in dispute that in view of the aforesaid notification, parwanas were issued to the petitioners, besides others under the provisions of Section 27 of the Land Ceiling Act in the year 1992 allotting them certain areas of lands, which were acquired by the State of Bihar. The aforesaid parwanas have been brought on record as Annexure-4 series to the writ petition.

4. It is further not in dispute that the respondent nos. 8 and 9, being the sons of the original landholder, subsequently approached this Court in CWJC No. 4876 of 1992 raising a grievance



that against total area of 28.57 acres of lands, which were declared surplus, original landholder had earlier voluntarily surrendered 19.97 acres of lands, which were acquired by the State of Bihar and therefore, only 8.60 acres of land was further required to be acquired in stead of 28.57 acres of lands. The aforesaid writ petition filed on behalf of the private respondents was finally disposed of by a Division Bench of this Court by order dated 01.03.1993 (Annexure-2) with a direction to the respondent-State authorities, to issue fresh notification after superseding the earlier notification issued under Section 15 (1) of the Land Ceiling Act.

5. From the materials available on the record, it is apparent that in the light of the aforesaid judgment and order dated 01.03.1993 (Annexure-2), the respondent District Collector issued a fresh gazette notification published in district gazette dated 16.11.1995, which has been brought on the record as Annexure-B series to the counter affidavits filed on behalf of the respondent nos. 8 and 9, the land holders. By the aforesaid gazette notification dated 16th November, 1995, the earlier gazette notification no.41 dated 01.06.1976 was modified and in place of 28.57 acres of lands, only 8.60 acres of lands were acquired. By the said notification itself, the lands for which parwanas were issued in favour of the petitioners were released from the land ceiling proceeding and were allowed to be retained by the landholders in the light of the order and direction issued by this Court. The aforesaid gazette notification dated 16th November, 1995 has attained its finality. However, despite the aforesaid notification lands which were allotted to the petitioners in the year 1992 were not handed over to the land holders and therefore, the land holders approached the respondent-State authorities for cancellation of their parchas as also jamabandi, if any, in their favour.

In above background, the impugned letter/communication dated 24.11.2011 has been issued by the respondent Anchal Adhikari, Gopalpur, as contained in Annexure-1.

6. The present writ petition was heard earlier and in the light of the earlier direction, a supplementary counter affidavit has been filed by the learned GP 20 on behalf of the respondent nos. 6 and 7, wherein it has been stated in paragraph 6 that in the light of the aforesaid gazette notification dated 16th November, 1995 whereby only 8.60 acres of lands of the landholders were acquired, a proceeding has been started for cancellation of Parchas/Parwanas as also jamabandi in favour of those beneficiaries including the petitioners, who were earlier granted parchas/parwanas in the year 1992. However, it has further been stated in paragraph 7 that Parcha Cancellation case No. 01/15-16 is still pending before the respondent DCLR, Naugachia.

7. From the facts noticed above, it is apparent that once gazette notification issued under Section 15(1) of the Land Ceiling Act in the year 1976 was modified and lands for which parchas were issued to the petitioners were allowed to be retained by the land holders in the light of the order of this Court, the petitioners cannot legally claim any right over the said plot of lands, as those lands ceased to be belonging to the State of Bihar.

8. In above view of the matter, this Court does not find any good ground to interfere with the impugned letter/communication dated 24.11.2011 (Annexure-1) and/or in continuance of Parcha Cancellation Case No. 01 of 2015-16 pending before the respondent DCLR, Naugachia. The prayer made on behalf of the petitioners in the present writ petition is completely misconceived. The writ petition is devoid of any merit and is, accordingly, dismissed, but without costs.

9. However, the petitioners, if so advised, shall be at

liberty to approach the respondent DCLR, Naugachia or any other competent authority of the respondent State to allot them some other lands, if available, which were acquired by the State of Bihar by the subsequent gazette notification issued in the year 1995.

(Birendra Prasad Verma, J)

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