

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11891 of 2012

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1. Kamla Kant Rishideo Son of Late Parsadi Rishideo, Resident of Village Haripur, Police Station- Krityanand Nagar (K. Nagar), District- Purnia
 2. Janardan Rishideo Son of Late Parsadi Rishideo, Resident of Village Haripur, Police Station- Krityanand Nagar (K. Nagar), District- Purnia
- Petitioner/s

Versus

1. The State of Bihar
 2. The Collector, Purnia
 3. The Additional Collector Land Ceiling at Purnia
 4. The Anchal Adhikari at Krityanand Nagar within the District of Purnia
 5. Sri Devendra Prasad Choudhary son of Sukhdeo Chaudhary, resident of village- Amchura, P.O. Kajha, P.S. Krityanand Nagar, District- Purnea.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Arun Pd. Ambastha
Mr. Rabindra Kr. Chaudhry
For the Respondent No.1 to 4 : Mr. Subhash Pd. Singh , GA- 7
For the Respondent No.5 : Mr. Binod Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 05-10-2015 Heard the parties.

The two petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent District Collector, Purnea (respondent no.2) to dispose of the Ceiling Miscellaneous Case No. 23 of 2011 filed on behalf of the petitioners under Section 38 of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Land Ceiling Act') for grant of appropriate reliefs indicated in the petition filed on behalf of the petitioners for said purposes, a copy of which has been brought on record as Annexure-3 to the writ petition, within a reasonable period of time.

Learned counsel appearing on behalf of the petitioners submits that the aforesaid Ceiling Miscellaneous Case No. 23 of

2011 was filed before the respondent District Collector, Purnia way back in the year 2011 for grant of appropriate relief with respect to the lands belonging to the original landholder-respondent no. 5, but till date, on one pretext or the other, the matter has not been disposed of. Therefore, it is pleaded that an appropriate direction may be issued to the respondent no. 2 for disposal of the aforesaid case within a reasonable period of time.

Learned G.A.-7 appearing on behalf of the respondent no. 1 to 4 and the learned counsel appearing on behalf of the respondent no. 5, though have opposed the claim of the petitioners regarding the lands in question, but they have not been able to dispute the assertions made on behalf of the petitioners that the aforesaid Ceiling Miscellaneous Case No. 23 of 2011 has not been disposed of till date.

A counter-affidavit on behalf of the respondent no. 1 to 4 has been filed wherein the claim of the petitioners regarding the lands in question has been disputed, but the factum of filing of the aforesaid case under Section 38 of the Land Ceiling Act and its pendency till date have not been controverted.

Though respondent no. 5 has entered appearance through his counsel, but no counter-affidavit has been filed till date.

Be that as it may, without going into the merits of the claims of the parties regarding the lands in question, this Court is of the opinion that once the petitioners have filed an appropriate petition under Section 38 of the Land Ceiling Act giving rise to Ceiling Miscellaneous Case No. 23 of 2011, then the respondent District Collector, Purnia cannot sit tight over the matter. He or the other competent authority under the Land Ceiling Act is under

legal obligation to decide the aforesaid ceiling case in accordance with law after giving an opportunity of hearing to all the parties including the respondent no. 5 herein.

In the aforesaid factual matrixes of the case and for the reasons recorded above, the present writ petition is disposed of with a direction to the respondent District Collector, Purnia to decide the aforesaid Ceiling Miscellaneous Case No. 23 of 2011 filed under Section 38 of the Land Ceiling Act either by himself or he may transfer the matter to the Collector under the land ceiling Act, who in turn shall be obliged to decide the same at an early date preferably within a period of six months from the date of receipt/ production of a copy of this order.

The parties shall be at liberty to raise all the issues of facts and law before the Collector under the Land Ceiling Act with respect to the lands under dispute which may be available to them. If need be, the parties shall be at liberty to approach the respondent no.2 for grant of interim protection.

Learned G.A. 7 has assured this Court that he shall communicate the present order at his own level so that the order is positively complied with within the time fixed by this Court.

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

(Birendra Prasad Verma, J)

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