

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11851 of 2014

=====

Prabhash Kumar Pratap Son of Bajendra Prasad Yadav, resident of village-
Chandpur (West) Sameli, Police Station- Falka, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chairman of the Bihar Land Tribunal at Patna
3. The Collector of the district of Katihar
4. The Sub Divisional Officer at Katihar District- Katihar
5. The Deputy Collector Land Reforms at Katihar District Katihar
6. The Anchal Adhikari, Sameli within the district of Katihar
7. Shri Hari Prasad Agrawal son of Late Khet Lal Seth
8. Nand Kishore Agrawal Son of Late Prithwi Chand Agrawal
9. Shambhu Prasad Agrawal, son of Late Ghanshyam Das Agrawal
10. Jagdish Prasad Agrawal Son of Late Shri Prasad Seth
11. Dwarika Pd. Agrawal Son of Late Baidyanath Prasad Agrawal
12. Rajesh Agrawal Son of Late Bhola Prasad Agrawal
13. Jitendra Agrawal Son of Late Tara Chand Agrawal
14. Om Prakash Agrawal son of Late Janki Prasad Agrawal, No- 7 to 14 residents
of village- Kursela, Police Station- Kursela, District- Katihar
15. Shri Jai Kant Yadav Son of Mani Lal Yadav
16. Shri Nirmal Yadav Son of Late Manic Lal Yadav, No- 15 and 16 residents of
Village- Morsanda Chandpur, Police Station- Korha, District- Katihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Adv.

For the Respondent Nos. 1 to 6 : Mr. Satya Prakash, AC to SC-22

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 09-09-2016

Heard the learned counsel appearing on behalf of the
petitioner and the learned AC to S.C. 22 appearing on behalf of the
respondent no. 1 to 6.



2. The petitioner is aggrieved by the order dated 18th December, 2013 passed by the learned Bihar Land Tribunal, Patna in B.L.T. Case No. 184 of 2013, as contained in Annexure-10 to the writ petition, whereby the aforesaid case filed on behalf of the petitioner for re-opening of the original Land Ceiling Case No. 27 of 1976-77 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') and for exclusion of the lands in question purchased by the petitioner, has been rejected.

3. It is not in dispute that the Land Ceiling Case No. 27 of 1976-77 was started against the landholder- Shri Hari Prasad Agrawal (respondent no. 7) and his other co-sharers. After initiation of aforesaid land ceiling case by the State of Bihar, landholder-respondent no.7 voluntarily surrendered certain area of lands including the lands in question, fully detailed in paragraph-5 of the writ petition in terms of Section 15A of the Land Ceiling Act. Consequently, Gazette notification under Section 15(1) of the Land Ceiling Act was issued on 7.1.1976, as a result of which the lands in question vested in the State of Bihar free from all encumbrances.

4. The learned counsel appearing on behalf of the petitioner submits that the lands in question, besides other plots of the land, were sold by the respondent no. 7 in the year 1965 in favour of certain persons through certain sale deeds, but those transferees were not given opportunity of hearing in the aforesaid land ceiling case, yet lands in question were acquired by the State of Bihar and were subsequently distributed between the respondent nos. 15 and 16 in terms of Section 27 of the Land Ceiling Act. He also submitted that the petitioner purchased the lands in question on 13.12.2012 from one Shri Nivas Yadav and Kailash Yadav, who were original purchasers

from the landholder, and once the petitioner came to know about acquisition of lands in question in the aforesaid land ceiling case, they approached the learned Bihar Land Tribunal, Patna in aforesaid B.L.T. Case No. 184 of 2013 for re-opening of the original land ceiling case and for grant of appropriate relief to the petitioner, but that has been rejected by the impugned order dated 18th December, 2013, as contained in Annexure-10.

5. In the present case, this Court finds that the matter was considered by the learned Tribunal at great length and the finding of facts have been recorded in paragraph-5 of the impugned order. For ready reference paragraph-5 of the impugned order is re-produced hereunder:-

“ Now, the question arises whether the prayer of the petitioner with regard re-opening of the Ceiling Case No. 01/1976-77 can be allowed after 37 years of the publication of the gazette notification No. 115 dated 07.01.1976 under Section 15(i) of the Ceiling Act. Section 15 of the Ceiling Act, specifically provides that on publication of the notification under Section 15(i) of the Act, the land specified in the notification shall, subject to the provisions of this Act, deemed to have acquired for the purposes of this Act and is vested in the State free from all encumbrances, with effect from the date of notification and all right, title and interest of all persons, be extinguished. In the present case, gazette notification under Section 15(i) was published on 07.01.1976. The effect of the publication of gazette under Section 15(i) will be that with effect from the date of notification, all right, title and interest of the vendor of the petitioner will be deemed to have been extinguished. The vendors of the petitioner have transferred the land in question in favour of the petitioner through registered sale deed executed on 18.12.2012, on the date of execution of sale deed, the vendors of the

petitioner had no right, title and interest left in this particular land because, their interest had already been extinguished, with effect from the date of notification of the gazette under Section 15(i) of the Ceiling Act. The vendors of the petitioner never challenged the gazette notification published on 07.01.1976. It means, they accepted the vesting of the land in the State of Bihar with effect from the date of publication of notification under Section 15(i) of the Ceiling Act.”

6. After having heard the parties and taking into consideration the factual matrices of the present case as also the findings recorded by the learned Tribunal, this Court finds that admittedly, Gazette notification under Section 15(1) of the Land Ceiling Act was issued on 7.1.1976, as a result of which, the lands surrendered by the landholder including the lands in question vested in the State of Bihar free from all encumbrances w.e.f. 7.1.1976. Despite issuance of aforesaid notification dated 7.1.1976, so-called purchasers Shri Nivas Yadav and Kailash Yadav did not challenge the aforesaid notification before the authority under the Land Ceiling Act or before this Court. In fact, in view of passage of more than three decades, it is apparent that they accepted the finality of the orders passed by the ceiling authority. Suddenly, after 36 years from the date of issuance of notification under Section 15(1) of the Land Ceiling Act, they transferred the lands in question in favour of the petitioner through registered sale deed dated 13.12.2012. Admittedly, on 13.12.2012 aforesaid Shri Nivas Yadav and Kailash Yadav were having absolutely no legal rights over the lands in question. Therefore, the transfer made by them was illegal and void ab initio. In above view of the matter, the learned Tribunal has rightly rejected the petition filed on behalf of the petitioner by the impugned order dated

18th December, 2013. No case for interference is made out.

The writ petition is devoid of merits and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

BTiwary/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.09.2016
Transmission Date	