

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3314 of 2002

With
I.A. No. 8001 of 2009

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1. Purushottam Sahu
 2. Nokhe Sahu, both sons of Late Ramautar Sahu, resident of Village- Basantpur
Khagra Tola, Prabata, P.S. Prabata, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Bhagalpur.
3. The Deputy Collector Land Reforms (Ceiling), Bhagalpur.
4. The Minister Revenue and Land Reforms Department, Govt. of Bihar, Patna.
5. Sultan Mandal son of Ayodhya.
6. Dinesh son of Bhochu Mandal.
7. Lakshmi Mandal son of Puran Mandal.
8. Darogi Mandal son of Puran Mandal.
9. Tilo Mandal son of Narayan Mandal.
10. Nago Mandal son of Baij Nath Mandal.
11. Maheshwar Pandit son of Dev Pandit.
12. Parma Nand Mistry son of Santu Mistry.
13. Maheshwar Sah
14. Keshar Sah, both sons of Lakhan Sah.
15. Dhauli Yadav son of Jitan Yadav.
16. Ramdev Mishra son of Saryu Mishra.
17. Bino Mistry son of Harihar Mistry.
18. Bhuneshwar Harijan son of Changari Harijan.
19. Domi Harizan son of Moti Harizan.
20. Basudeo Mandal son of Gulab Mandal, all residents of Village Dadpur, P.S.
Kharik, District Bhagalpur.
21. Sheoji Musahar son of Gurami Musahar.
22. Kamali Musahar son of Lakhan Musahar, resident of Village Dadpur, P.S.
Kharik, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Adv.
Mr. Mithilesh Kumar Sinha
For the Respondent No. 1 to 4: Mrs. Kumari Amrita, G.P. 3
Mr. Mirtyunjay Kr. AC to G.P. 3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 05-08-2016

Heard the parties.

The petitioners are aggrieved by the order dated 11.09.2001
passed in Case No. 1 of 1998 by the respondent no.4, as contained in



Annexure-9 to the writ petition, whereby the petition filed on behalf of the father of the petitioners under Section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short Land Ceiling Act) for reopening of the original Land Ceiling Case No. 1390/ 1973, started and concluded against the original landholder- Lavkush Sahu and/ or his other family members, has been rejected on the ground that the lands in question claimed by the petitioners or their ancestors were surrendered by the original landholder under Section 15A of the Land Ceiling Act in presence of the grand father of the petitioners, but at no point of time any objection was filed under Section 10(3) of the Land Ceiling Act. The prayer for re-opening has been rejected also on the ground that the lands in question acquired under Section 15(1) of the Land Ceiling Act were distributed amongst the beneficiaries long long ago, but they have not been impleaded as party respondents.

The learned counsel appearing on behalf of the petitioners though has argued the matter at some length assailing the validity and correctness of the impugned order dated 11.9.2001 (Annexure-9), but on the query made by this Court he has fairly conceded that the original landholder or their heirs and successors have not been impleaded as a party respondents in the present proceeding. Apparently, the writ petition suffers from non-joinder of the necessary parties.

Admittedly, the lands in question claimed by the petitioners were treated to be that of the original landholder. In fact, the original landholder voluntarily surrendered the lands in question under section 15A of the Land Ceiling Act by claiming that these lands belong to him, and, accordingly, the same were acquired under Section 15(1) of the Land Ceiling Act. If the petitioners were willing to get the original

land ceiling proceeding re-opened under Section 45B of the Land Ceiling Act, then the landholder or in case of his death, his successors/ heirs were necessary parties. In absence of the landholder, the claim for reopening of the original land ceiling proceeding under Section 45B of the Land Ceiling Act cannot be considered. Furthermore, this Court finds that by order dated 25.1.2010 the learned counsel appearing on behalf of the petitioners was granted four weeks' time for taking steps for substitution of the deceased respondent nos. 18, 19 and 21. Despite passage of more than six years, no steps have been taken by the petitioners for substitution of the aforesaid deceased respondents, as a result of which the writ petition, as against the aforesaid deceased respondents and their heirs and legal representatives, has abated. Consequently, it has become incompetent.

For the reasons recorded above, this Court does not feel persuaded to interfere with the impugned order dated 11.9.2001 passed in Case No. 1 of 1998 by the respondent no.4, as contained in Annexure-9 to the writ petition. Consequently, the writ petition is dismissed, but without costs.

I.A. No. 8001 of 2009 also stands, accordingly, disposed of.

(Birendra Prasad Verma, J)

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