

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4501 of 2002

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1. Sri Akhilesh Kumar
 2. Sri Kamlesh Kumar
 - Both sons of Bal Govind Prasad
 3. Ram Lochan Mahto son of Late Bhagulu Mahto
 4. Smt. Piyaria Devi wife of Suraj Mahto
 5. Smt. Surji Devi wife of Late Ram Dayala Mahto
 6. Rajdeo Mahto
 7. Ram Awtar Mahto
 8. Shri Shiov Nandan Mahto
 - petitioner nos. 6,7 and 8 are sons of Late Pun Mahto
 9. Vijay Prasad son of Late Rameshwar Mahto
 10. Sanjay Prasad
 11. Bijay Prasad
 - Petitioner nos. 10 and 11 are sons of Harihar Mahto.
 - Petitioner nos. 1 to 11 are resident of village Madsari, Police Station Imamganj, District Gaya
 12. Smt Asafia Begum wife of Afak
 13. Ram Lochan Prasad son of Late Husaini Mahto
 14. Bhuneshwar Prasad son of Late Husaini Mahto
 15. Lohri Mahto son of Late Manohar Mahto
 16. Smt.Bibi Baratan widow of Iqbal Hussain
 17. Basudeo Mahto son of Late Hussasin Mahto
 - petitioner nos. 12 to 17 are resident of village Pakardih, Police Station Imamganj, District Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Gaya
3. Sri Shamsher Alam
4. Sri Zafar Alam
- Respondent nos. 3 & 4 are sons of Abdul Jalil Khan
5. Shahanshah Alam
6. Shariyar Alam
- Respondent nos. 5 and 6 are sons of Abdul Hasib Khan
- Respondent nos. 3 to 6 are residents of village Dumrawa, P.O. Banke Bazar, Police Station Banke Bazar, District Gaya

... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devi Das Srivastava, Advocate
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 22-07-2016 Heard the learned counsel appearing on behalf of the
petitioners. However, none appears on behalf of the respondents,

though the name of the learned State counsel is printed in the daily cause list.

2. The petitioners, 17 in number, are aggrieved by order dated 15.10.2001 passed in Land Ceiling Case No. 29 of 1999-2000 by the respondent District Collector, Gaya, as contained in Annexure-2 to this writ petition, whereby the petition filed on their behalf under Section 9(2) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, “the Act”) has been rejected for the reasons recorded in that order.

3. The learned counsel appearing on behalf of the petitioners, though argued the matter at some length, but has fairly conceded that all the purchases by these petitioners were made after 09.09.1970, the appointed day.

4. It is well settled that the transfer of land made after 09.09.1970 by the landholder without written permission of the Collector under the Act is void. However, the claim of the purchaser can be considered only in terms of Section 9(2) of the Act.

5. In the present case, there are two difficulties; firstly, in the present case after considering several issues of fact, the claims of the petitioners have been rejected by the District Collector, Gaya and the order impugned is appealable as also revisionable in terms of Sections 30 and 32 of the Act; and secondly, the ceiling case has been concluded long long ago i.e. more than two decades and lands, so declared surplus and acquired under the provisions of 15(1) of the Act, appear to have distributed, but all the parcha holders have not been impleaded as party respondents. The present writ petition suffers from non-

joinder of necessary parties.

6. It is well settled that issues of fact must be raised and conclusively decided by the statutory authorities and only thereafter the powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked. In the present case, several issues of facts are involved. Furthermore, the impugned order is appealable under Section 30 of the Act, but no appeal has been filed. Against the appellate order, the aggrieved party has further remedy of revision under Section 32 of the Act.

7. In above view of the matter, the present writ petition is dismissed. However, if so advised, the petitioners shall be at liberty to approach the appellate authority for grant of appropriate relief(s) with respect to the lands in question, after impleading all the necessary parties including the landholders and all the parcha holders.

(Birendra Prasad Verma, J)

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