

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15427 of 2005

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1. Pashupati Kumar Pathak, son of Sri Anandi Prasad Pathak
 2. Kishori Pathak, son of late Shashi Shekhar Pathak.
 3. Pramod Bihari Pathak, son of Shri Jagnarain Pathak
- All are residents of village-Sherpur, P.S.-Maner, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Circle Officer, Maner, P.S.-Maner, District-Patna.
3. Mukund Ram, son of Sonhu Ram, resident of village-Sherpur, P.S.-Maner, District-Patna (expunged vide order dated 19.05.2010 and substituted by his following heirs and legal representatives):
 - (i) Radhika Devi, widow of late Mukund Ram
 - (ii) Gyanti Devi, daughter of late Mukund Ram, wife of Pradeep Ram, resident of village-Dularpur (Punpun), P.S.-Punpun, District-Patna.
4. Laxman Ram, son of Sonhu Ram, resident of village-Sherpur, P.S.-Maner, District-Patna (expunged vide order dated 19.05.2010 and substituted by his following heirs and legal representatives):
 - (i) Malti Devi, widow of late Laxman Ram
 - (ii) Bhola Ram
 - (iii) Bijuli RamBoth sons of late Laxman Ram, resident of village-Sherpur, P.S.-Maner, District-Patna.
5. Satrohan Ram, son of Sonhu Ram, resident of village-Sherpur, P.S.-Maner, District-Patna (expunged vide order dated 19.05.2010 and substituted by his following heirs and legal representatives):
 - (i) Jasoda Devi, widow of late Satrohan Ram
 - (ii) Bachi Devi, wife of Sri Ranjeet Ram, resident of Deemraon, District-Bhojpur and daughter of late Satrohan Ram.
 - (iii) Shrawan Ram
 - (iv) Arbind Ram, both sons of late Satrohan Ram, resident of village-Sherpur, P.S.-Maner, District-Patna.
6. Somaru Ram, son of Sonhu Ram, resident of village-Sherpur, P.S.-Maner, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Veena Kumari Jaiswal, Adv.
For the Respondent nos.1&2 : Mr. Ajay Kumar Sharma, AC to PAAG-I
For the Respondent nos.3to6 : Mr.Kumar Alok, Adv.
Mr. Rakesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 23-08-2016

The petitioners have filed the present writ petition under



Article 226 of the Constitution of India assailing the validity and correctness of the order dated 16.10.1969 passed in Case No.90 of 1969-70 by the respondent Circle Officer, Maner, as contained in Annexure-1 to the writ petition, whereby the claims raised on behalf of one Sonhu Ram, father of respondent no.6 and grandfather/father-in-law of the substituted respondent nos.3 to 5 under the provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short 'Act, 1947') has been allowed and the Homestead Parcha for a small parcel of 9 decimals of lands was directed to be issued in his favour. The petitioners have also challenged the validity and correctness of the consequential Homestead Parcha dated 16.10.1969, as contained in Annexure-2 to the writ petition, which was issued in favour of aforesaid Sonhu Ram, the father of the respondent no.6 and grandfather/father-in-law of the substituted heirs of deceased respondent nos.3, 4 and 5.

The learned State counsel appearing on behalf of the respondent nos.1 and 2, at the very outset, has submitted that the writ petition is liable to be dismissed on the ground of delay and laches. According to him, the Homestead Parcha issued on 16.10.1969 in favour of the father of the respondent no.6 and grandfather/father-in-law of the heirs of deceased respondent nos.3, 4 and 5 is being challenged in the present writ petition filed on 16.12.2005. According to him, no valid explanation has been furnished by the petitioners for approaching this Court in the present proceeding after such a long delay of 36 years.

The submissions made by the learned State counsel appear to be correct.

Indisputably, the claim of Sonhu Ram, who is now dead and his heirs of 2nd and 3rd generation are the private respondents

herein, was allowed under the provisions of the Act, 1947 by an order dated 16.10.1969 vide Annexure-1 and consequential Homestead Parcha was granted in his favour vide Annexure-2, but the present writ petition has been filed on 16.12.2005; therefore, there is delay of more than 36 years. In above view of the matter as also on the ground of equity, which is in favour of the private respondents, who are poor and landless persons, this Court is not inclined to interfere with the orders impugned.

Consequently, the present writ petition has to fail and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.08.2016
Transmission Date	