

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10385 of 2004

With

Interlocutory Application No. 6311 of 2016

Smt. Indira Kumari Devi wife of Shri Shubhkant Jha (Expunged and substituted by her following heirs and legal representatives:)

(1) Amar Kant Jha son of late Smt. Indira Kumari Devi

(2) Markandey Jha son of late Smt. Indira Kumari Devi

(3) Smt. Gyan Shila Devi

(4) Bhagya Shila Devi

(5) Prem Sheela Devi

(6) Shakh Sheela Devi, all daughters of late Smt. Indira Kumari Devi, all residents of Village Kharka, P.S. Nanpur, District Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

2. Collector, Sitamarhi.

3. Additional Collector, Sitamarhi.

4. Subdivisional Officer, Pupri, Distt. Sitamarhi

5. Anchal Adhikari, Bokhara, Distt. Sitamarhi.

6. Tilak Choudhary, son of Chalitara Choudhary, resident of Lakshminia Tola, Kharka, P.S. Nanpur, Distt. Sitamarhi.

7. Mostt. Sorfee, widow of Sitaram Chamar, resident of village Nayanagar Kharka, P.S. Nanpur, District Sitamarhi.

8. Jogeshwar Sahni S/O Panchu Sahani, resident of village Lakshminia Tole, Kharka, P.S. Nanpur, Distt. Sitamarhi.

9. Ram Sakal Singh S/O Late Ram Sewak Singh, R/O Vill- Rasalpur, P.S. Damra, Distt. Sitamarhi

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Adv.

Mr. Umakant Tiwary, Adv.

For the Respondent No.1 to 5 : Mr. Pratik Kr. Sinha, AC to G.A. 5

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 26-08-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned State counsel appearing on behalf of the respondent nos. 1 to 5. However, none appears on behalf of the other respondents.

2. The matters at issue are the orders passed and the Gazette notifications issued in Land Ceiling Case Nos.1 of 1973-74 and 8 of

1973-74 started and concluded against landholders Ram Sewak Singh and Ram Sakal Singh respectively.

3. The learned counsel appearing on behalf of the petitioner submits that the grievance of the substituted petitioners in the present writ petition filed under Article 226 of the Constitution of India is that the lands claimed by them, fully detailed in paragraphs 6 and 7 of the writ petition, were never declared surplus in the aforesaid two land ceiling cases No.1 of 1973-74 and 8 of 1973-74 of the district of Sitamarhi, and the lands claimed by these petitioners were never acquired under Section 15(1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (In short 'Act'), yet the lands claimed by these petitioners have been distributed under Section 27 of the Act amongst the beneficiaries including the private respondents and/or their heirs and legal representatives.

4. The learned AC to GA 5, appearing on behalf of the respondent nos. 1 to 5, submits that if the lands claimed by these petitioners have not been declared surplus under Section 11(1) of the Act and have not been acquired under Section 15(1) of the Act in the aforesaid two land ceiling cases, then certainly these lands cannot and could not have been distributed amongst the beneficiaries, but these are the issues of facts, which are required to be examined by the competent authority by looking into relevant records as also the relevant notifications issued in connection with aforesaid two land ceiling cases, after giving an opportunity of hearing to all concerned, as all the relevant records are not before this Court.

5. Despite valid service of notice neither the parcha-holders nor the landholders including the respondent no.9 are represented before this Court. In the aforesaid factual matrices, the substituted petitioners are directed to appear before the respondent District



Collector, Sitamarhi with a comprehensive representation and all the relevant documents including sale deeds in support of their claims with respect to the lands in question as also with the certified copy of the present order within a period of one month from today, whereafter the respondent District Collector, Sitamarhi shall summon the records of Land Ceiling Case Nos. 1 of 1973-74 and 8 of 1973-74 started and concluded against the landholders Ram Sewak Singh and Ram Sakal Singh, who are said to be the father and son respectively. If the original landholders Ram Sewak Singh as also Ram Sakal Singh are found to have died, then their heirs and legal representatives shall be given an opportunity of hearing. Thereafter, the respondent District Collector, Sitamarhi shall examine the entire records of aforesaid land ceiling cases, and if on examination, he finds that the lands claimed by the petitioners were not declared surplus and have not been acquired under Section 15(1) of the Act, yet it was distributed amongst the beneficiaries, then he shall pass an appropriate order for cancellation of such parchas. However, if it is found that the lands claimed by the petitioners were acquired under Section 15(1) of the Act by the State Government and accordingly, parchas were issued in favour of the private respondents, besides others, if any, then he shall reject the claim of these petitioners, but before passing any final order, reasonable opportunity of hearing must be given to these petitioners, original landholders Ram Sewak Singh and Ram Sakal Singh, and in case of their death, their heirs and legal representatives, as also the parcha holders including respondent nos. 6 to 8 or in case of their death, their heirs and legal representatives.

6. It is clarified that if after examination of the records of the aforesaid two land ceiling cases, the claims of these petitioners are allowed, and it is found that some other lands declared surplus are still

lying with the State Government, then the claims of the respondent nos. 6 to 8 or their heirs shall be appropriately considered under Section 27 of the Act.

7. The writ petition stands finally disposed of with the observations and directions made above. I.A. No. 6311 of 2016 also stands accordingly disposed of.

(Birendra Prasad Verma, J)

BTiwary/-

U			
---	--	--	--