

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10522 of 2004

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1. Tula Singh son of Late Lal Bahadur (Expunged vide order dated 21.01.2013 and substituted by his following heirs and legal representatives)

1(a) Gauri Shankar Singh

1(b) Jai Shankar Singh

Both sons of Tula Singh, resident of Village Bakhatpur, P.S.Barauni,
P.O. Tiltrath, District Begusarai

1(c) Rajmati daughter of Late Tula Singh and wife of Surya Deo Singh, resident
of Village Jaruah, P.S.Hajipur, District Vaishali

1(d) Shushila Kumari daughter of Late Tula Singh and wife of Jag Narayan
Singh, resident of Bagmali, P.S.Hajipur, District Hajipur

2. Ramnath Mahto son of Late Lal Bahadur, resident of Village
Bakhatpur, P.S.Barauni, P.O. Tiltrath, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar

2. The Hon'ble Minister of Revenue and Land Reforms Department, Bihar, Patna

3. The Collector, Begusarai

4. The Additional Collector, Begusarai

5. The Circle Officer, Barauni Block, Begusarai

6. Santosh Kumar Singh son of Late Sitaram Singh (grand son of Late Deoki
Singh), resident of village Musaidpur, P.S.Barauni, P.O. Tiltrath, District
Begusarai

7. Most. Ram Dulari Devi wife of Late Bala Singh, resident of Village Harpur,
P.S.Barauni, District Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Singh, Advocate

For the Respondent Nos. 1 to 5 : Mrs. Kumari Amarita, GP 3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 29-07-2016

Heard the learned counsel appearing on behalf of the petitioners as also the learned GP 3 appearing on behalf of the respondent nos. 1 to 5. However, none appears on behalf of the respondent nos. 6 and 7 despite issuance of notice to them earlier by a Bench of this Court.

2. The petitioners are aggrieved by the order dated 06.05.2003 passed in Case No. 4 of 2002 by the respondent no.2, as contained in Annexure-4 to the writ petition, whereby the aforesaid



case filed on behalf of the petitioners and/or their ancestors under Section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, “the Act”) for re-opening of the original land ceiling case and for exclusion of the land in question claimed by the petitioners, fully detailed in paragraph 3 of the writ petition, has been rejected essentially on the ground of delay.

3. The learned counsel appearing on behalf of the petitioners submits that the land in question was originally sold in the year 1963 by one Deoki Singh, father of the landholder Sita Ram Singh, through a registered sale deed dated 28.01.1963. Subsequently, the widow of the purchaser Bala Singh sold the land in question in favour of the petitioners in the year 1991 through two registered sale deeds. He further submits that Land Ceiling Case No. 5/37 of 1976-77 was started against the landholder Sita Ram Singh in which the land in question was also included, and finally same were declared surplus under Section 11(1) of the Act and were acquired under Section 15(1) of the Act by the State Government. However, it is contended that at no point of time, any opportunity of hearing was given either to the petitioners or their vendor. He also submits that once the petitioners came to know about the acquisition of the land in question by the State Government under the provisions of the Act, they filed a petition before the State Government under Section 45B of the Act for re-opening of the original land ceiling case and for exclusion of the land in question from the aforesaid land ceiling case and for grant of appropriate relief to the petitioners. However, according to the learned counsel, the respondent no.2, by the impugned order, has rejected the case filed on behalf of the petitioners essentially on the ground of delay in filing the petition and has

refused to decide the matter on merits. It is pointed out that even notice was not issued to the opposite parties in that case.

4. The learned GP 3, appearing on behalf of the official respondents has opposed the prayer made in the present writ petition and has supported the impugned order, but she is not in a position to controvert the averments made in the writ petition that even notices were not issued to the opposite parties of that case.

5. This writ petition was filed way back on 02.09.2004 and despite passage of almost 12 years, no counter affidavit has been filed on behalf of the respondents controverting the averments made in the writ petition. Therefore, the averments made in the writ petition have to be accepted.

6. Taking into consideration the submissions made by the learned counsel appearing on behalf of the parties as also on examination of the materials available on the record, and further taking into consideration the reasonings recorded by the respondent no.2 for rejecting the case of the petitioners on the ground of limitation, this Court is of the opinion that the matter requires re-consideration and a fresh decision by the respondent no.2. Indisputably, for filing a petition under Section 45B of the Act, no period of limitation has been prescribed either under the Act or Rules made thereunder. Under Section 45B of the Act, the State Government has been empowered to call for and examine any record of any concluded land ceiling proceeding at any point of time, if it is satisfied that the case is required to be re-opened. After re-opening of the concluded land ceiling case it can be directed to be decided afresh. In the present case, claim raised on behalf of the petitioners is that the father of the original landholder had transferred the land in question way back in the year 1963 through a registered sale deed and

subsequently, the petitioners acquired the lands in question by two sale deeds executed by widow of the original purchaser. However, the respondent no.2, before passing the impugned order, had not even issued notice to the vendor of the petitioners or the original landholder, and dismissed the case essentially on the ground of limitation, which cannot be countenanced.

7. For the reasons recorded above, the impugned order dated 06.05.2003 passed in Case No. 4 of 2002 by the respondent no.2, as contained in Annexure-4 to the writ petition, is hereby set aside and quashed, and the matter is remitted back to the respondent no.2 with a direction to decide the aforesaid case afresh strictly in accordance with law, but before passing any final order, opportunity of hearing must be given to all concerned including the writ petitioners, landholder or his successor, vendor of the petitioners and the parcha holders, if any.

8. The parties shall be at liberty to raise all the issues of fact and law, which may be available to them, with respect to the land in question before the respondent no.2.

9. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	01.08.2016
Transmission Date	