

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 997 of 2014

IN

Civil Writ Jurisdiction Case No 6489 of 1990

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1. Ghanshyam Narain Singh s/o Late Ran Vijay Singh R/o village Akhilaspur, P.S. Bhabhua, Dist. Kaimur
 2. Nanda Devi D/o Late Ran Vijay Bahadur Singh W/o Kripa Narain Singh R/o Village Bhadari, P.O. Barahi, P.S.- Bhabhua, Dist. Kaimur
 3. Saroj Devi D/O Late Ran Vijay Bahadur Singh W/o Sri Sarwan Kumar Singh R/o Village + P.O. + P.S.- Sonhan, Dist. Kaimur

.... Appellant/s

Versus

1. The State of Bihar
2. Member, Board of Revenue, Bihar, Patna
3. Collector, Kaimur at Bhabhua
4. S.D.O., Bhabhua
5. Circle Officer, Bhabhua

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Rajendra Prasad Singh, Senior Advocate with
Mr Achhaibar Singh, Advocate

For the S t a t e : Mr Deepak Sahay Jamuar, AC to AAG VI

For the Interveners : Mr Pushkar Narain Shahi, Senior Advocate with
Mr Patanjali Rishi, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 22-01-2016

IA No 5166 of 2014 has been filed for stay of order of
Anchal Adhikari, Bhabhua dated 07.05.2014 directing the appellants
to vacate and hand over the ceiling surplus land.

We have heard Shri Rajendra Prasad Singh, learned

Senior Counsel in support of this appeal, the learned counsel for the State and learned counsel for the interveners, who had intervened at the stage of the writ proceedings to whom these lands were initially to be allotted as surplus lands upon distribution by the Government to landless persons.

Having heard the parties at length, we are of the opinion that we should dispose of the appeal itself on merit. As such, with consent of parties, we have heard the matter for its final disposal at this stage itself.

It appears, in 1965, an agriculture land ceiling proceeding was initiated against one Ran Vijay Bahadur Singh, the erstwhile landholder being the predecessor-in-interest of the appellants. Let it be noted that during pendency of the writ petition, Ran Vijay Bahadur Singh died and has been substituted by the heirs and successors who are the appellants now.

This agriculture land ceiling proceeding was numbered as Land Ceiling Case No 94 of 1965-66. The proceedings were concluded on or about 27.01.1971 wherein it was clearly held, after all inquires, that the land holder was in possession of 116.64 acres of land and was entitled to five ceiling units totalling to 125 acres. Thus, there being no surplus lands, the agriculture land ceiling proceedings were closed. No one challenged these proceedings. It appears that in 1978, Section 45B was inserted to the Bihar Land Reforms (Fixation



of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (for brevity, the Act) whereby the State Government or the Collector of the District was given jurisdiction to call for and examine any record of any proceeding earlier disposed of by the Collector under the Act, and if he found fit, direct that the case be reopened and disposed of afresh in accordance with the provisions of the Act. Accordingly, it seems the proceedings, in relation to the land holder, were recommended to be reopened by order dated 20.06.1982 (Annexure 1 to the writ petition) by the Additional Collector, Bhabhua which was accepted by the Collector of the district and, accordingly, Land Ceiling Case No 47 of 1982 was registered. The only reason for reopening the ceiling proceedings, which had been concluded more than a decade back, was for re-verification of the age of the ceiling unit holders, who were found five in number in the earlier proceedings. There was no other ground available or noticed.

The first challenge by the appellants is to the jurisdiction to open ceiling proceedings on such a flimsy ground. There are no materials even to suggest that the findings, as recorded in the earlier ceiling proceedings, were either erroneous or based on no evidence. Apparently, only because the person was a big land holder, on a pretence of an excuse, the proceedings were reopened. It is rightly submitted that the jurisdiction to reopen a concluded proceeding is a very serious matter and cannot be taken lightly. There has to be



cogent materials to reopen a concluded proceeding. Merely on the ipse dixit of any officer, such a jurisdiction cannot be invoked for the jurisdictional facts have to exist, though sufficiency thereof, cannot be questioned. There was apparently no fact to justify any reasonable plea that the age of the ceiling unit holders had wrongly been determined. It is not on the whims of the Collector of the district that the proceedings are to be reopened, for if that was the import of the Section then the Section would have been in conflict with Article 14 of the Constitution and was liable to be challenged as ultra virus being absolutely unguided and arbitrary conferment of power to reopen concluded proceedings. Our view, that there were no materials even to justify a prima facie finding of discrepancy in age, is fortified by the view that right through the ceiling proceedings, as reinitiated up to the end, not once did the authorities even proceeded to record any finding contrary to those as recorded in the original proceedings. Thus, in our view, this itself was sufficient to vitiate not only the reopening but all subsequent actions taken including the ultimate order declaring about 6.56 acres of land to be surplus in these reopened proceedings. We would advert to that also.

We can now examine as to what happened in the proceedings, as reopened. As noticed earlier, Land Ceiling Case No 94 of 1965-66 was closed with a finding that the land holder (Jainath Singh as he then was) had only 116.64 of acres of land and there



being 5 ceiling unit holders, he was entitled to 125 acres of land and, as such, the land holding was not in excess of the agriculture land ceiling. Now, in the reopened proceedings, the number of unit entitled to the land holder remains the same. There is no challenge therein. Thus, the entitlement of land to be held by the unit holder remains the same 125 acres. What has been found that one of the unit holders had independently purchased 16.18 acres of land from her Stridhan by registered documents way back on 10.12.1955. These lands were treated to be lands of the family and included in the ceiling proceedings and, thus, adding these lands to 116.64 acres as found in the earlier proceedings now that the total land came to be 131.56 acres and, thus, 6.56 acres was declared to be surplus. It is this land which has been notified to be surplus and was sought to be distributed amongst the interveners when, in the writ proceedings, by interim order, it was not only directed to be stayed but there were positive directions for reallocating those purcha holders other lands and not disturb the possession of the writ petitioners. Shri Rajendra Prasad Singh, on instructions, states that pursuant to Settlement Case No 6 & 7 of 2005-2006, as pending before the Circle Officer, Bhabhua, all the interveners have been given settlements of other lands, other than the writ petitioners/appellants' lands. At this stage, we may observe that if the interveners, who had intervened at the stage of writ petition and who had intervened here, have not been given possession of any other

land, it would be the responsibility of the District Collector to ensure that they are so given other lands.

Now, back to the facts. Shri Rajendra Prasad Singh, learned Senior Counsel submits that as per reports of the Revenue Authorities, the lands had been classified as Class-IV lands and if that is kept in mind then the land holder would in fact be entitled to hold 150 acres of land. This issue had never been raised before in the earlier proceedings inasmuch as even though the records show the lands to be Class-IV, whimsically, the authorities without any evidence treated it to be Class-III land but that was making no difference because even treating it to be Class-III land, the holding was within the ceiling limit. But, when it came to the present proceeding upon reopening, this fact became material. The lands having already been classified as Class IV land, the authorities, under the Ceiling Act, could not, on their own, reject the classification and change it to Class –III land, and, by the said process, prejudice the rights of the writ petitioners/appellants. He further submits that the land, about 16.18 acres, which had been independently purchased by the lady from her own stridhan in the year 1955, had been considered in the earlier ceiling proceedings and had not been taken note of as it was independently purchased by registered document. That would not be included in lands available to the family as a unit. If these lands are omitted then again there is no surplus land. On both the counts,

having considered the facts, we would agree with the learned Senior Counsel for the appellants. We may only add that the authorities are to act quasi judicially in these proceedings for they are to determine disputes with regard to the rights of the land holder in respect of his land holding. It has serious consequences. The more the serious consequences, the greater caution and care and the stricter compliance of law is required by the Courts. Keeping these principles in mind, there is no place for whims and caprice. The orders have to be based on cogent facts and materials and correct legal reason, both of which are absent in the present case.

We, thus, have no option but to allow this appeal and set aside the judgment and order of the learned Single Judge dated 30.08.2013 passed in CWJC No 6489 of 1990. Accordingly, Annexures-7 and 8 of the writ petition, being the order of the Collector of the District and the Board of Revenue, are, thus, set aside.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

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