

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8209 of 2010

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Hari Lal Mandal, S/O Fathu Mandal, R/O Village Hadahawa, P.S.-Jogwani, District-Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Collector, Araria.
3. The Circle Officer, Forbesganj, Araria.
4. Bhithan Mandal, S/O Jhulai Mandal, R/O Village Hadahawa, P.S. Jogwani, District-Araria.
5. Kadam Lal Mandal, S/O Jhulai Mandal, R/O Village Hadahawa, P.S. Jogwani, District-Araria.
6. Baijnath Mandal, S/O Jhulai Mandal, R/O Village Hadahawa, P.S. Jogwani, District-Araria.
7. Iswarnath Mandal, S/O Jhulai Mandal, R/O Village Hadahawa, P.S. Jogwani, District-Araria.
8. Gopi Chand Prasad Keshrai, S/O Jaggarnath Prasad Keshari, R/O Ranjaganj, P.S. Narpathganj, District-Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent Nos.1 to 3: Ms. Divya Verma, AC to AAG-2

For the Respondent Nos.4 to 7 : Mr. Shashi Nath Jha, Adv.

Mr. Mukesh Kr. Rana, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 26-08-2016

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of order dated 25.10.2008 passed in Case No. 9 of 2005-06/ 5 of 2007-08 by the respondent Additional Collector, Araria, as contained in Annexure-1, whereby the aforesaid case filed on behalf of the petitioner has been dismissed on the ground of lack of jurisdiction.

2. The petitioner claims to be purchaser of the lands in question, fully detailed in paragraph-2 of the writ petition through a

registered sale deed dated 27.6.1991.

3. Admittedly, the lands in question purchased by the petitioner were subject matter of land ceiling surplus case started and concluded against the original landholder- Gopi Chand Prasad Keshari and others. It is also not in dispute that after conclusion of the aforesaid land ceiling surplus case, certain area of lands belonging to the original landholder- Gopi Chand Prasad Keshari was declared surplus, which includes the lands in question also, and finally by Gazette notification dated 9.12.1987 issued under Section 15(1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (In short 'Act'), all the surplus lands of the landholder including the lands in question were acquired by the State Government and were subsequently distributed amongst beneficiaries including the respondent nos. 4 to 7 under Section 27 of the Act.

4. In above view of the matter, appropriate remedy available to the petitioner was under Section 45B of the Act for getting the original land ceiling case re-opened and re-decided, so far the lands in question are concerned, after giving an opportunity of hearing to all concerned including the landholder. It is apparent that instead of filing petition under Section 45B of the Act, the petitioner approached the respondent Additional Collector, Araria for exclusion of the lands in question from the land ceiling case and for cancellation of red-cards issued to the private respondent nos. 4 to 7, which has rightly been dismissed by the respondent Additional Collector, Araria by the impugned order dated 25.10.2008 (Annexure-1) on the ground of lack of jurisdiction.

5. Under the scheme of Section 45B of the Act, the Additional Collector, Araria was/ is not authorized to pass any order

for re-opening the original land ceiling case, therefore, the case filed by the petitioner has rightly been rejected by him on the ground of lack of jurisdiction.

6. In the aforesaid factual matrices, the impugned order cannot be legally faulted. The writ petition is devoid of merits and is, accordingly dismissed. However, this shall not come in the way of the petitioner to file an appropriate petition under Section 45B of the Act before the State Government for re-opening of the original land ceiling case and for passing an appropriate order with respect to the lands in question, after giving an opportunity of hearing to all concerned.

(Birendra Prasad Verma, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	31-8-2016
Transmission Date	