

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17758 of 2015

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Surendra Chaudhary & Ors

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Respondent/s : Mr. Ajay- Ga12

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

6 19-01-2016

Heard the learned senior counsel, Mr. Yogesh Chandra

Verma for the petitioners and the learned counsel, Mr. Prateek

Sinha, A.C. to G.A.12 for the respondents-State.

Altogether 69 petitioners have filed this writ application for quashing the order dated 27.07.2015 passed by the Collector, Begusarai in Misc. Ceiling Case No.29 of 1999 and for quashing entire ceiling proceeding in Ceiling Case No.4 of 1973-74 including the different orders passed therein and further prayer has been made for reopening the case under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. The petitioners have also prayed for quashing the entire proceeding in Purcha Case No.180-81 and distribution of the land in favour of the purcha holders by the State Authorities.

It appears that the Land Ceiling Proceeding No.4 of



1973-74 was started against land holder Chandramauli Deo. In the said case, the land holder, Chandramauli Deo disowned 120.68 acres of land. The State Authorities issued notification under Section 15 of the Land Ceiling Act and acquired the said land in the year 1979. Thereafter, purcha case was initiated in the year 1980 and thereafter the lands were distributed. Thereafter in the year 1992, the present petitioners filed CWJC No.2882 of 1992 before the High Court raising various grounds mentioned in the order passed by the High Court dated 23.07.1999 as contained in Annexure 4 to this writ application. This Court after considering the grievance of the present petitioners directed as follows:

“Therefore, in my view, this would be in the interest of justice that the matter be examined by the Collector of the District after giving full opportunity to the writ petitioner-intervenors and also the settlees to file relevant documents in support of their grievances. He shall also get an enquiry and spot verification conducted properly either himself or through any other competent authority and thereafter, decide the matter after hearing all the parties and pass necessary orders.” Till the disposal the dispossession of the petitioner was stayed. After this remand order, the Collector has passed the order as contained in Annexure 5 dated 27.07.2015. The Collector has rejected the prayer made by



the petitioners holding that in fact, the land ceiling proceeding regarding 120.68 acres was initiated against wife of the land holder, Chandramauli Deo being land ceiling Case No.21 of 1973-74. Considering the fact that the term 'family' as defined under Section 2(ee) of the Land Ceiling Act, includes spouse of either land holders, the said land ceiling case started in the name of wife of the land holder, Savitri Devi was tagged with the land ceiling case of Chandramauli Deo. Now, therefore, the lands were disowned by the land holder although, it was standing in the name of the wife of the land holder. The Collector also held that the interveners are claiming to have purchased 25 bighas of land out of the same 120.68 acres of land on the basis of oral purchase from the wife of land holder and they have already filed Title Suit No.23 of 1992 for declaration of their title. Considering these matters and considering the report of the Circle Officer, the Collector held that the petitioners were not found in possession of the rest of the properties, therefore, notification was issued under Section 15 of the Land Reforms Act. The Collector further held that if any finding is recorded with respect to the title, as claimed by the petitioners by filing various documents, it will affect the parties in the title suit which is pending before the Civil Court. However, considering these facts, the Collector rejected the prayer



holding that once the notification is issued under Section 15(i) and 15(ii) of the Land Ceiling Act, it vested in the State of Bihar and now, therefore, on the ground that the petitioners are the real owner of the property particularly when it was found that the lands were recorded in the name of Savitri Devi and 25 bighas of land is being claimed by the interveners on the ground that they have purchased from Savitri Devi, the case cannot also be reopened under Section 45B of the Land Ceiling Act.

The learned senior counsel, Mr. Verma submitted that this order passed by the Collector as contained in Annexure 5 is contrary to the direction given by this Court in CWJC No.2882 of 1992 by order dated 23.07.1999, Annexure 4. The learned senior counsel further submitted that the petitioners filed various documents to show that their forefathers or their fathers were recorded in the revenue record which is in the custody of the State of Bihar and in fact, they have acquired title to the property on the basis of the settlement made by the ex-landlord. Therefore, this Court in the earlier writ application, considering the grievance of these petitioners, directed the petitioners to investigate the title of the petitioners but the Collector did not investigate the title and has rejected the application only on the ground that once the notification has been issued, the lands vested on the State of Bihar.



The learned senior counsel also submitted that various documents have also been annexed with this writ application in support of the case that they are recorded in the revenue record of right and they are paying regularly rent to the State Authorities. Without hearing them, the notification has been issued in the year 1979. On these grounds, the notification itself was illegal and contrary to the natural justice. Therefore, the Collector should have after setting aside the notification reopened the case but the Collector rejected this prayer. According to the learned senior counsel, in the purcha case also, no notice was ever issued to the petitioners, therefore also, the purcha case is liable to be set aside and the distribution of the lands of the present petitioners is liable to be recalled. The learned senior counsel further submitted that in fact, now under the Constitution, right to hold property is a Constitution right, therefore, without notice, the petitioners could not be dispossessed by the State Authorities.

On the other hand, the learned counsel appearing on behalf of the State Authorities submitted that there is no question of setting aside the notification arises. The Collector has rightly followed the direction given by this Court in the writ application filed by the petitioners in the year 1992. So far the question of the title is concerned, the Collector has no authority to declare the title



and so far issuance of notice is concerned, after the remand order passed by this Court, the petitioners were heard at length and they even produced their evidences before the Collector and after considering all these matters and the submission raised by the petitioners, the Collector has passed a reasoned order. The land acquisition proceeding was started in the year 1973-74 and the notification was issued in the year 1979. The Circle Officer submitted a report wherein the possession of these petitioners was not found by the Circle Officer and thereafter the notification was issued in the year 1979. During this period, no objection was raised by the petitioners. Thereafter, the purcha case was started in the year 1981-82 and the lands were distributed in the year 1992. For this long period of ten years, these petitioners never intervened which indicates that these petitioners were not in possession of the property. Considering the fact that the land measuring 120.68 acres was recorded in the name of Savitri Devi, wife of Chandramauli Deo, the ceiling case started in the name of Savitri Devi, being Ceiling Case No.21 of 1973-74, was tagged with Ceiling Case No.4 of 1973-74 which was in the name of Chandramauli Deo. On these grounds, the learned counsel submitted that the writ application is liable to be dismissed and no interference can be made in extraordinary writ jurisdiction under

Article 226 of the Constitution of India.

Perused the order passed by this Court as contained in Annexure 4 and also the order passed by the Collector as contained in Annexure 5. The grievance of the petitioners in the earlier writ application is that although, their names are recorded in the record of right or in various revenue records and also the returns were submitted in their names, as they are the settlees, no notice was ever issued to them while the lands were acquired under the Land Ceiling Land. This Court considering this fact that the notice has not been issued to them directed the Collector to hear the petitioners after granting opportunity to them to file their documents and then pass a fresh order. The matter was therefore, remanded. Now, therefore, the grievance of the petitioners that earlier notification was issued without hearing them has been resolved.

So far enquiry regarding title of the petitioners and that the Constitution has granted constitutional property right to the petitioners is concerned, it may be mentioned here that the title of the petitioners is disputed. The petitioners are claiming the ownership of the property on the basis of the settlement made by the ex-landlord. This question regarding title could not have been decided or enquired into by the Collector while dealing an

application under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 or while dealing with an application under Section 45B of the said Act.

Admittedly, the interveners, in this case, who have not been made party in this writ, have filed title suit as aforesaid which is pending before competent Court of civil jurisdiction. Here, under Article 226 also, this Court cannot examine various documents regarding the title of the present petitioners. So far the claim of the petitioners that they are the title holders and that they have not been heard is concerned, as stated above, the grievance of not hearing has been resolved and so far their title is concerned, the Collector nor this Court can grant this relief in exercise of jurisdiction under the Ceiling Act or under Article 226 of the Constitution of India.

So far the submission of the learned senior counsel for the petitioners that the Collector while acquiring the property under the Land Ceiling Act has not followed the procedure prescribed in the Land Ceiling Act is concerned, it is only a technical matter and, therefore, the matter was earlier remanded to the Court below. Admittedly, the land was recorded in the name of the wife of Chandramauli Deo. Both the lands ceiling proceedings, initiated in the name of land holder and his wife, were tagged

together treating the land to be the land of Chandramauli Deo. Chandramauli Deo admittedly disowned 120.68 acres of land. Nobody at that time claimed to be the owner of the said property and, therefore, notification under Section 15 was issued. Now, in the year 1992, these petitioners and interveners are claiming to be the owner of the property.

So far the ownership is concerned, as stated above, the title suit with respect to 25 bighas is pending before Civil Court and for rest lands, these petitioners are claiming, unless it is declared that these petitioners are the real owner, on the ground that there is illegality in the procedure, the order passed by the Collector cannot be interfered with in extraordinary writ jurisdiction under Article 226 of the Constitution of India.

Thus, this writ application is dismissed. The interim order, if any, stands vacated.

(Mungeshwar Sahoo, J)

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