

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8741 of 2005

- =====
1. Raghav Raut
 2. Jiwachh Raut
 3. Lal Babu Raut
 - Petitioner Nos. 1 to 3 are sons of Late Anand Raut
 4. Ram Lal Raut
 5. Bilash Raut
 6. Hulash Raut
 7. Ram Kripal Raut
 - Petitioner Nos. 4 to 7 are sons of Late Satahu Rau
 8. Jagdish Raut son of Chalitar Raut
 9. Shobhit Raut son of Bauna Raut
 10. Keshwar Raut son of Shubh Narayan Raut
 11. Jogendra Raut son of Late Birju Raut
 12. Ramyash Raut son of Late Khakhan Raut
 13. Yogeshwar Raut son of Late Horil Raut
 14. Yogeshwar Raut son of Late Lottan Raut
 15. Ram Baran Raut son of Late Thithar Raut
 16. Sanjit Kumar son of Late Ramswarup Raut
 17. Ramchandra Raut son of Late Shital Raut
 18. Sogarath Raut son of Late Shital Raut
 19. Ram Babu Raut son of Late Sheoram Raut
 20. Ram Baran Raut son of Late Ram Chalitar Raut
 21. Shiv Sharan Raut son of Late Ram Chalitar Raut
 22. Jai Lal Raut son of Late Bunni Raut
 23. Gurudeo Raut son of Late Ram Prasad Raut
 24. Sushil Raut son of Late Ram Prasad Raut
 25. Bidyanand Giri son of Late Ritlal Giri
 26. Ramnand Giri
 27. Kishan Giri
 28. Sikander Giri
 - Petitioner Nos. 26 to 28 are sons of Late Chaliter Giri
 29. Bisnath Sah
 30. Raghunath Sah
 - Petitioner nos. 29 and 30 are sons of Late Ramlal Sah
 31. Ganga Sah son of Late Shumalal Sah
 32. Pukar Sah son of Late Shyamlal Sah
 33. Narayan Sah son of late Ramautar Sah
 34. Naresh Sah son of Late Ramautar Sah
 35. Ram Prabhodh Raut son of Late Jajuni Raut
 - All the petitioners are residents of Village Adhgaon, P.S.Nanpur,
District Sitamarhi

.... Petitioner/s

Versus

- 1 The State of Bihar
2. The Collector, Sitamarhi, District Sitamarhi
3. The Additional Collector, Sitamarhi, District Sitamarhi
4. The Anchal Adhikari, Nanpur, P.S. Nanpur, District Sitamarhi
5. Prem Shankar Sahi son of Late Bindesdhari Sahi, resident of Village

Panth Pakar, Anchal Bathnaha, District Sitamarhi
6. Maharudra Raut son of Late Triloki Raut, resident of village
Adhgaon, P.S.Nanpur, District Sitamarhi

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Barun Kr. Choudhary, Advocate
Mr. Lalit Narayan Jha, Advocate
For the Respondent Nos. 1 to 4 : Mr. Ajay, GA 5
Mr. Pratik Kr.Sinha, AC to GA 5
For the Respondent No.6 : Mr.Ashok Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 19-08-2016

Heard the learned counsel appearing on behalf of the petitioners, the learned GA 5, appearing on behalf of the respondent nos. 1 to 4, and the learned counsel appearing on behalf of the respondent no.6. However, none appears on behalf of the respondent no.5, despite valid service of notice upon him.

2. The petitioners, 35 in number, have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 06.06.2005 passed in Land Ceiling Appeal Case No. 3 of 2001 by the respondent District Collector, Sitamarhi, as contained in Annexure-9 to the writ petition, whereby the intervention petition dated 17.02.2004 filed on behalf of the petitioners, besides others, for being impleaded as party respondents in the aforesaid Land Ceiling Appeal Case No. 3 of 2001 has been rejected.

3. It is common case of the parties that Land Ceiling Case No.30 of 1976/2 of 1985 was initiated against the original landholder Bindeshwari Prasad Sahi by the respondent Additional Collector, Sitamarhi. However, after death of the original landholder, his son Prem Shankar Sahi (respondent no.5 herein) was substituted and the aforesaid land ceiling case continued under the provisions of



The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land), 1961 (in short, “the Act”). After conclusion of the land ceiling proceeding, certain area of lands belonging to the landholder was declared surplus and finally acquired by the State Government under Section 15(1) of the Act, which includes the lands of khata no. 235 appertaining to khesra No. 1867, total area being 1.62 acres situate at Village Adhgaon, Anchal Nanpur, District Sitamarhi (in short lands in question).

4. In the present proceeding, the dispute is with respect to claim of right, title and possession of the petitioners viz-a-viz the respondent no.6 as also the respondent no.5 Prem Shankar Sahi, who was found to be the owner of the lands in question.

5. It is not in dispute that the respondent no.6, claiming to be the heir and successor of one Gudri Raut and being aggrieved by the final order dated 07.01.2000 passed by the respondent Additional Collector, Sitamarhi declaring the lands in question, besides other plots of the lands, as surplus land of the landholder, approached this Court in CWJC No. 5852 of 2001, which was finally disposed of by order dated 07.05.2001 (Annexure-7) by a co-ordinate Bench of this Court giving liberty to the respondent no. 6 to file an appeal before the prescribed appellate authority, who, in turn, was directed to consider his case on merits. Accordingly, the respondent no.6 filed Land Ceiling Appeal Case No. 3 of 2001 before the respondent no.2, District Collector, Sitamarhi, which is still pending for final disposal in view of the order of stay passed in the present proceeding vide order dated 05.07.2006.

6. The grievance of the petitioners is that though they are also the heirs and successors of aforesaid Gudri Raut, yet they have not been impleaded as party respondents in the aforesaid Land Ceiling



Appeal Case No. 3 of 2001. According to the petitioners, respondent no.6 is having claim over only 1.5 kathas of the lands in question, and rest of the lands belong to the petitioners. On the above plea, the petitioners, besides others, filed an intervention petition dated 17.02.2004 before the District Collector, Sitamarhi in the aforesaid Land Ceiling Appeal Case No. 3 of 2001, but by the impugned order dated 06.06.2005, the intervention petition, so filed, on behalf of the petitioners, besides others, has been rejected.

7. The learned counsel appearing on behalf of the petitioners submits that they are claiming their right and title only over an area of 1.62 acres of plot no. 1867 and they have no concern with other plots of lands belonging to the landholder respondent no.5, which have been declared surplus and have been acquired by the State Government. According to him, since the question of right and title with respect to 1.62 acres of lands in question is required to be decided by the respondent District Collector, Sitamarhi pursuant to the order and direction of this Court dated 07.05.2001 (Annexure-7), the petitioners are also entitled to be heard by the appellate authority in the aforesaid Land Ceiling Appeal Case No. 3 of 2001. Therefore, it is pleaded that an appropriate direction may be issued to the respondent District Collector, Sitamarhi after setting aside the impugned order for redressal of the valid grievances of the petitioners.

8. The learned GA 5, appearing on behalf of the respondent nos. 1 to 4, submits that pursuant to the interim order of stay passed by a Bench of this Court by order dated 05.07.2006 Land Ceiling Appeal Case No. 3 of 2001 filed on behalf of the respondent no.6 is still pending before the District Collector, Sitamarhi and the State authorities will have no objection if the claim of the petitioners viz-a-viz claim of the respondent no.6 and that of the landholder-



respondent no.5 is considered by the respondent District Collector, Sitamarhi in the aforesaid land ceiling appeal case. However, it is contended that if the petitioners or the respondent no.6 are not in a position to prove their right or title over the lands in question before the District Collector, Sitamarhi, then certainly the lands in question shall be treated to be that of the landholder, which have already been acquired by the State Government.

9. The learned counsel appearing on behalf of the respondent no.6 has opposed the prayer made in the writ petition on the ground that, in fact, all the petitioners are not the heirs of aforesaid Gudri Prasad Raut and some of them are strangers. Therefore, according to him, their claim cannot be considered with respect to the lands in question. He next submitted that out of 59 persons, who had filed intervention petition dated 17.02.2004, only 35 persons have approached this Court in the present proceeding; therefore, those 24 persons against whom the impugned order has attained its finality should not be permitted to raise their claim with respect to the lands in question.

10. After having heard the parties and taking into consideration the factual matrices, as noticed above, this Court is of the opinion that since the petitioners as also the respondent no.6 are claiming to be the descendants of Gudri Prasad Raut, who, according to them, was the rightful owner of the lands in question, but the same was wrongly included in the land ceiling case initiated and concluded against the respondent no.5; therefore, they should also be given opportunity of hearing by the respondent District Collector, Sitamarhi while deciding the claim of respondent no.6 with respect to the lands in question in the aforesaid pending Land Ceiling Appeal Case No. 3 of 2001. It is clarified that while deciding the aforesaid land ceiling



appeal case, the petitioners or the respondent no.6 shall not be permitted to challenge other part of the order passed by the respondent Additional Collector, Sitamarhi declaring other lands of respondent no.5 to be surplus. The consideration by the District Collector, Sitamarhi shall remain confined only with respect to the right and title of the parties over the lands in question bearing plot no. 1867, area 1.62 acres only. It is also clarified that other intervenors, who have accepted the finality of the impugned order dated 06.06.2005, shall not be given opportunity of hearing in the aforesaid pending Land Ceiling Appeal Case No. 3 of 2001.

11. For the reasons recorded above, the impugned order dated 06.06.2005 (Annexure-9) passed in Land Ceiling Appeal Case No. 3 of 2001 by the respondent District Collector, Sitamarhi is set aside only to the extent which concern these petitioners; and the respondent District Collector, Sitamarhi is directed to give an opportunity of hearing to these petitioners, besides respondent no.6 and the landholder-respondent no.5, with respect to the lands in question.

12. In order to expedite the matter, the petitioners as also the respondent no.6 are hereby directed to appear before the respondent District Collector, Sitamarhi within a period of one month from today with a certified copy of the present order, whereafter the respondent District Collector, Sitamarhi shall proceed to decide the aforesaid Land Ceiling Appeal Case No. 3 of 2001 in accordance with law keeping in mind the observations made above, but before passing any final order, opportunity of hearing must be given to all concerned.

13. 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	
CAV DATE	
Uploading Date	22.08.2016
Transmission Date	