

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3373 of 2011

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1. Savitri Devi wife of Late Dashrath Prasad Singh
 2. Mohan Prasad Singh
 3. Braj Mohan Singh @ Braj Mohan Prasad Singh
 4. Arjun Prasad Singh
- Petitioner nos. 2 to 4 are sons of Late Dasrath Prasad Singh, resident of Village Walipuir, Police Station Piparia, District Laheriasarai
5. Ritesh Kumar Singh son of Late Ganesh Prasad Singh, resident of Village Walipur, Police Station Piparia, District Laheriasarai
- Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
 2. The Collector, Lakhisarai
 3. The Deputy Collector, Land Reforms, Lakhisarai
 4. The Circle Officer, Barahiya, District Lakhisarai
- Respondent/s
- =====

Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Amit Bhushan, AC to GP 17

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 30-08-2016 The petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents to cancel the parchas issued to the various persons (not impleaded as party in the present proceeding) over the lands which were declared surplus in the Ceiling Case No. 5 of 1975-76 and were finally acquired.

2. From the pleadings of the parties, it is apparent that the Land Ceiling Case No. 5 of 1975-76 was started against the original landholder Late Dashrath Prasad Singh. After death of aforesaid landholder, the petitioners were substituted and ceiling case proceeded. After conclusion of the ceiling proceeding, notification under Section 11 (1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, “the Act”) was issued by the Collector under the

Act and after allotting the lands to the landholders to the extent permissible under the ceiling units allotted to them, a large area of lands, precisely 171.035 acres were declared surplus and accordingly, same were acquired by the State Government by issuance of a Gazette Notification under Section 15(1) of the Act. It is not in dispute that the said lands were distributed amongst the beneficiaries under Section 27 of the Act.

3. Despite repeated calls, none appears on behalf of the petitioners in support of the present writ petition, though the name of the learned counsel appearing on their behalf is printed in the daily cause list.

4. The learned State counsel appearing on behalf of the respondents, on the other hand, has submitted that the reliefs sought for on behalf of the petitioners cannot be granted in the present writ petition on account of non-joinder of necessary parties. According to him, surplus lands have been distributed among the beneficiaries, but none of the beneficiaries have been impleaded as party respondents in the present proceeding. It is pleaded that the writ petition is fit to be dismissed on the ground of non-joinder of necessary parties.

5. Taking into consideration the aforesaid submissions and on examination of the materials available on the record, this Court is of the opinion that the reliefs sought for on behalf of the petitioners cannot be granted on account of non-joinder of parchas holders as party respondents. Furthermore, this Court finds that when this matter was taken up on 29.06.2015, it was informed to the court that petitioner no.1 has passed away. Therefore, the learned counsel appearing on behalf of the petitioners was granted two weeks' time for filing appropriate

petition seeking substitution of the heir and legal representatives of the deceased petitioner no.1. From perusal of the office note dated 22.08.2016 it appears that no Interlocutory Application has been filed either on behalf of the other surviving petitioners or on behalf of the heirs of deceased petitioner no.1, seeking substitution vice deceased petitioner no.1. In above view of the matter, so far petitioner no.1 is concerned, the writ petition has abated, as a result of which, the writ petition has become incompetent.

6. For the reasons recorded above, this Court is further of the opinion that no useful purpose shall be served by keeping the present matter pending any longer, as the reliefs sought for on behalf of the petitioners cannot be granted in absence of parcha holders as party respondents.

7. Consequently, the writ petition has to fail and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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