

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.255 of 2014

IN

Civil Writ Jurisdiction Case No. 11293 of 2013

- =====
1. Dinesh Chandra Chaudhary son of - Late Natho Prasad Chaudhary
 2. Prakash Chandra Choudhary, son of - Late Ramesh Chandra Chaudhary. Both resident of village- Rupaspur Khagaha, P.S. Mirganj, District- Purnea

.... Petitioners

Versus

1. The State of Bihar, through the Collector, Purnea
2. The Collector, Purnea
3. The D.C.L.R., Dhamdahan, District- Purnea
4. The Anchal Adhikari, Dhamdahan, District- Purnea
5. Mukhiya, Rupaspur Panchayat, P.S.- Mirganj, District- Purnea

---- Respondents/Opp. Parties

6. Bishwanat Muni, son of - Late Ghunshi Muni
7. Lakhan Muni, Son of- Late Matuki Muni
8. Bishun Mandal Muni, Son of - Late Mhuthai Muni
9. (a) Bamban Muni
(b) Panchu Muni
(c) Deepak Muni
All sons of Late Parshuram Muni.
(d) Sulekha Devi
(e) Ruban Kri
(f) Komal Kri
All daughters of Late Parshuram Muni
All Resident of Khagaha Rupaspur, Pahartol, P.S. Mirganj, Dist. Purnea.
10. (a) Sonia Deiv, W/o of late Brahmdeo Muni.
(b) Shanker Muni.
(c) Niku Muni.
(d) Kailash Muni.
(e) Naresh Muni.
All sons of Late Brahmdeo Muni, Resident of Khagaha Rupaspur, Pahartol, P.S. Mirganj, Dist. Purnea.

.... Writ Petitioners/Opp. Parties

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Appearance :

For the Petitioner/s : Mr. S.N. Singh, Adv.
Mr. Sanjeev Kumar, Adv.
For the Respondent/s : Mr. Dineshwar Mishra, Adv.
Mr. Surendra Mishra, Adv.
For the State : Mr. Sudhanshu Shekhar, AC to SC-24

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-09-2016

Heard learned counsel for the petitioners and counsel for the State as also counsel for the private respondents.

Learned counsel for the petitioners has preferred this application for review of the order dated 20.6.2014 passed by this Hon'ble Court in CWJC No. 11293 of 2013 (Annexure-4) which reads as follows:-

"Heard learned counsel for the petitioners and learned counsel for the State.

A ceiling proceeding was initiated vide Case No. 26/75-76 against one Ramesh Chandra Choudhary and 65.42 acres of land was declared surplus. After notification issued u/s 15 (1) of the Land Ceiling Act, the land was vested in the State of Bihar. It has been submitted that petitioners are landless persons and in whose favour the land was settled and they are in occupation of the land. Details have been mentioned in Annexure-4 of this writ application.

After the settlement of the land, Halka Karamchari issued the rent receipt upto 20th September 1992 and thereafter, Halka Karamchari refused to issue the rent receipt to the petitioners.

The petitioners approached the concerned Circle Officer who did not give any fruitful result and thereafter, they also approached the Mukhiya of Gram Panchayat but no favourable action was taken against these petitioners which compelled them to approach this Court.

From Annexure-1 it appears that there was a ceiling proceeding. The land was declared surplus. As per the petitioners, this land has been settled.

The Circle Officer is directed to examine the issue if the land in question has been settled with these petitioners and earlier they were issued the rent receipt, there

is no reason that subsequently they will be deprived of the rent receipt. As per the petitioners, the land in question is still in their occupation.

The petitioners are directed to file a detail representation along with this order before the Circle Officer.

If such application is filed, the Circle Officer will be obliged to decide the issue. If it is found that petitioners are in possession of the land, straightway the Circle Officer will direct the Halka Karamchari for issuance of rent receipt to these petitioners and whole process should be completed within two months. In case of failure, the Court may take serious view in the matter.

Accordingly, this petition is disposed of."

This order was passed on the basis of statement that the land of Ramesh Chandra Chaudhary in Case No. 26/75-76, his 65.42 acres of land has been declared surplus and after the notification issued under Section 15(1), the land has been vested to the State of Bihar. As those five persons who are respondents in the present case were landless, the Government allotted the land to them but, the Karamchari was not issuing the receipt.

Admittedly, it has not been disputed by the private respondents that the surplus land measuring 65.42 acres of Ramesh Chandra Chaudhary was surplus, was a subject matter of authentication before this Court in C.W.J.C. No. 1659 of 1975, 1678 of 1975, 1707 of 1975 and 1708 of 1975 and this Court, vide judgment and order dated 10.11.1975, disposed of the writ



applications with a direction to proceed afresh in accordance with law and determine the extent of surplus land could be declared surplus taking into consideration the amended provision of the Act. In pursuance thereof, the Collector, in terms of the provisions of Ceiling Act, re-calculated the area of surplus land and vide order dated 1.4.1977 found that there is no surplus land and dropped the proceeding. The Sub-Divisional Officer, Sadar, Purnea, vide order dated 13.8.1979, directed the Circle Officer to recover the red cards which were issued in favour of the respondents and other similarly situated persons and submit compliance report and recorded that no possession was given to the private respondents which has been opposed by the private respondents as they have submitted that, on the basis of order passed in ceiling proceeding were already given possession and have been in continuous possession for many years and he has further submitted that he has also received subsidy on the basis of land given by them. That part cannot be looked into in the present proceeding but, certainly, when the basis of granting receipt has already been withdrawn, the question of giving direction for issuance of any rent receipt in favour of the persons in whose favour land has been distributed does not arise as later on declaration of surplus land has been withdrawn which has conveniently not mentioned rather suppressed.

In that view of the matter, the order passed by this Court dated 20.6.2014 in C.W.J.C. No. 11293 of 2013 is hereby recalled. The parties will be at liberty to take legal course in accordance with law.

In the result, this application stands allowed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.10.2016
Transmission Date	