

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13436 of 2014

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1. Kamleshwari Yadav
2. Bindeshwari Yadav
3. Manoj Kumar Yadav
4. Kishore Kumar Yadav @ Raj Kishore Yadav,
All are sons of Late Badri Prasad Yadav
All are resident of village- Ramnagar Farsahi, P.S. Janaki Nagar, Dist- Purnea
.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector of the District, Purnea
3. The Deputy Collector, Land Reforms, Purnea
4. The Anchal Adhikari (C.O.), Banmankhi, Dist- Purnea
.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md.Waliur Rahman, Advocate
Mrs. Mira Kumari, Advocate
For the Respondent/s : Mr. Shashi Shakher Prasad Sinha, AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 25-01-2016

Heard the parties.

2. The petitioners claim to be the purchasers of the lands in question, detailed in paragraph nos. 4 to 6 in the present writ petition, through different sale deeds from the original landholder Jai Narain Mehta. Their grievance is that they filed Misc.Ceiling Case No. 580 of 1992 on 19.10.1992 before the District Collector, Purnea under Section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short "the Act") for re-opening of the Land Ceiling Case No. 573 of 1973-74 and for exclusion of the lands purchased by them from the aforesaid land ceiling case and/ or for passing any appropriate order, but their case has not been disposed of till date despite the order and direction dated 07.04.1993 passed in CWJC No. 3228 of 1993 by a Division Bench of this Court only on the ground that subsequently Section 45B of the

Act has been amended by Ordinance No. 20 of 1995, which ultimately resulted in Bihar Act 8 of 1997, whereby the District Collector has been divested from the powers of deciding the proceedings under Section 45B of the Act.

3. The learned counsel appearing on behalf of the petitioners submits that the aforesaid Land Ceiling Case No. 573 of 1973-74 was started against the original landholders Jai Narain Mehta and Ram Narain Mehta, both sons of Late Anup Lal Mehta. According to him, though the lands in question were purchased by the petitioners through different sale deeds, but all the lands were treated to be the lands of the landholders and finally it was declared as surplus and was acquired by the respondent State of Bihar, but before passing any final order, opportunity of hearing was not given to the petitioners. Therefore, according him, the petitioners filed the aforesaid Misc.Ceiling Case No. 580 of 1992 before the District Collector, Purnea under Section 45B of the Act for re-opening the aforesaid Ceiling Case No. 573 of 1973-74 and for passing an appropriate order, but till date the matter has not been disposed of by the respondent District Collector purportedly on the wrong notion of law that in view of Amending Act 8 of 1997, the matter cannot be decided by him.

4. Though, the present writ petition was filed on 05.08.2014, but counter affidavit has not been filed on behalf of the respondents as yet. However, learned AC to GA 13, appearing on behalf of the respondents, on oral instructions, submits that the matter is still pending before the District Collector, Purnea and has not been disposed of till date. He fairly conceded that in view of the judicial pronouncements made by this Court, the matter is to be decided by the District Collector, Purnea himself and not by the State Government.



5. The issue involved herein is no longer a res integra in view of the judicial pronouncements made by this Court in the case of **Bhagwan Singh and others Vs. The State of Bihar and others [1996 (2) PLJR 61]**, followed by another Bench decision in the case of **Radha Kant Mishra and others Vs. The State of Bihar and Others [2000 (4) PLJR 281]** wherein it has been held that any petition filed under Section 45B of the Act before the District Collector prior to amendment in the Act either by way of aforesaid Ordinance or by the amending Act 8 of 1997, the matter has to be decided by the District Collector himself as there is no provision of transfer of such proceeding to the State Government. However, if any person is aggrieved by final order passed in a land ceiling case and files a petition after the aforesaid amendment for redressal of his grievances, then such aggrieved person is required to approach the State Government only under Section 45B of the Act for re-opening of the land ceiling case and for passing appropriate orders with respect to his claims. Indisputably, in the present case, the petition was filed on behalf of the petitioners much earlier on 19.10.1992 before the Amendment in the Act in the year 1995. Therefore, the respondent District Collector ought to have decided the case of the petitioners on merits after taking into consideration all the materials available on record and after giving an opportunity of hearing to all concerned including the landholders and parcha holders, if any, but that has not been done in the present case patently on misconceived notion of law.

6. In above view of the matter, the present writ petition is disposed of with a direction to the respondent District Collector, Purnea to dispose of the aforesaid Misc.Ceiling Case No. 580 of 1992 filed under Section 45B of the Act on merits, after giving an opportunity of hearing to all concerned including the petitioners,

original landholders and in case of their death, to their heirs and legal representatives and the parcha holders, besides others, if any, at an early date preferably within a period of six months from the date of appearance of the petitioners before the respondent District Collector, Purnea with a certified copy of the present order.

7. In order to expedite the matter, the petitioners are hereby directed to appear before the respondent District Collector, Purnea within a period of one month from today with a certified copy of the present order, whereafter the respondent District Collector shall fix a firm date for proceeding in the matter and shall make all endeavour to dispose of the aforesaid proceeding, as per above directions and within the time framed by this Court.

8. It is clarified that the parties shall be at liberty to raise all the issues of facts and law before the respondent District Collector, Purnea which may be available to them with respect to the lands in question as also with respect to order(s) passed in land ceiling proceeding initiated and concluded against the original landholders.

9. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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