

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22826 of 2011

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1. Sri Krishna Jha S/O Late Jeebachh Jha R/O Village- Dev Ram, P.O.- Aamaithi,
District- Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary Department Of Revenue And Land Reforms, Government Of
Bihar, Patna
3. The Collector-Cum-District Magistrate, Darbhanga
4. The Sub Divisional Officer, Benipur, District- Darbhanga
5. The Circle Officer, Benipur Block, District- Darbhanga
6. The Mukhia, Gram Panchayat Raj, Devram, P.O.- Aamaithi, District-
Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. DURGA NAND JHA

For the Respondent/s : Mr. GAUTAM BOSE AAG8

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 27-01-2016

Heard Mr. Durga Nand Jha for the petitioner and A.C. to
A.A.G.-8 for the State. Parties have exchanged pleadings.

Under circulatory provisions of the State Government, an
Ex-serviceman, while in service, could have applied for settlement of
government land for the purpose of agriculture or residence subject to
certain condition(s). The circular, in this regard, was issued by the
government in the Department of Revenue and Land Reforms on
16.8.1972 (Annexure-E to the counter affidavit). The petitioner claims
to have served the Indian Army until he retired on 31.12.1977. It is
stated that while in service, he made an application for such
settlement of land. The application was taken notice of by the Deputy



Collector Land Reforms, Darbhanga and by a communication dated 23.06.1972, the Circle Officer, Benipur was directed to take necessary steps. The matter, however, remained pending. In the meanwhile, another circular was issued in the year 2003 whereby the consent of the Gram Sabha was made necessary/mandatory before such settlement of government land with any individual like the petitioner. The petitioner continued to pursue his claim. The D.C.L.R. by a communication dated 30.07.2013 (Annexure-D to the State counter affidavit) remitted the matter to the Circle Officer to take appropriate steps/decision after ascertaining whether the petitioner holds land in excess of 50 decimals and whether the application was filed by him while in service. The said communication refers to a particular piece of land which was proposed to be settled with the petitioner or claimed by the petitioner to be settled. Indisputably, the matter remained pending before the Circle Officer which provided a cause to approach this Court for appropriate direction.

In respect of the claim that the petitioner did not hold more than 50 decimals of land, in the rejoinder, it has been stated as under (paragraph 6):-

“6. That so far second stand taken on behalf of the Respondents 1 to 6 that petitioner possesses more than 50 decimal of land is concerned in reply to it is respectfully stated that grand father of petitioner Late Shreedhar Jha had 3 bighas of land which were divided amongst his three sons namely Late Jeebachh Jha,

Kailu Jha and Ram Gulam Jha and each got one bigha land. Out of one bigha land petitioner has one brother and one sister and thus the petitioner inherited less than 50 decimals of land. The petitioner brings on record a copy of Genealogy in support of above facts. Thus petitioner has land less then 50 decimal.”

On going through the Circular of the State Government dated 16.08.1972 (Annexure-A), it appears that the applicant must not hold more than 50 decimals of land. If the Government land has changed its nature then the consent of the Gram Sabha is also required. The final decision in the matter is to be taken by the District Collector. It has not been shown to me by the petitioner that he shall have a right of settlement of a particular piece of land. Under the relevant circular, the petitioner may be entitled to settlement of a waste Government land. The land may not be of his choice.

In the case at hand, indisputably, the matter is pending before the Circle Officer who has to make appropriate enquiry with reference to the total area of land possessed by the petitioner when the application was filed and also about the appropriate Government land which can be settled with the petitioner. As noticed, ultimate decision shall be of the District Collector in the matter. Other submissions have been advanced by the parties but for the purpose of disposal of the case, they shall not be noticed.

The application stands disposed of by directing the Circle Officer, Benipur (respondent no. 5) to make appropriate enquiry with

regard to the area of land possessed by the petitioner when the application was filed as also the ascertainment of government land which can be settled with the petitioner, if at all he is entitled to, and place entire matter before the District Collector (respondent no. 3) enabling him to pass appropriate orders. It is expected the exercise as per the order shall be completed by the respondent Circle Officer within 08 weeks from the date of receipt/production of a copy of this order. Needless to observe that any matter referred in this regard to the Collector (respondent no. 3) shall also be dealt with by the said respondent expeditiously in accordance with law.

(Kishore Kumar Mandal, J)

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