

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4116 of 2008

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1. Kumar Ganesh Gunjan, son of late Satya Kumar Singh.
2. Kumar Kamal Kanchan, son of late Satya Kumar Singh
3. Nirmala Singh, widow of Late Satya Kumar Singh
All resident of village-Uditgram (Nathpur), P.S.-Barhara Kothi, District-Purnia.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnia.
3. The Additional Collector, Land Ceiling at Purnia.
4. The Sub-Divisional Officer, Dhamdaha within the district of Purnia.
5. The Anchal Adhikari at Barhara Kothi within the district of purnia.
6. Most. Bhagwati Devi, widow of late Chandra Shekhar Prasad Bhagat, resident of village and P.S.-Naugachhia, District-Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Adv.
For the Respondent nos.1to5 : Mr. M.K.Upadhyay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

12 19-08-2016

Heard the parties.

The petitioners claim to be the purchasers of the lands in question, fully detailed in paragraph 5 of the writ petition.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the Gazette notification issued under Section 15(1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Act'), whereby the lands in question, besides other plots of land, have been acquired by the State Government by treating the same to be surplus land of the land holder.

The learned counsel appearing on behalf of the petitioners submits that, at no stage of the ceiling proceeding, the petitioners were given any opportunity of hearing, yet the lands in question were wrongly treated to be that of the land holder and

finally declared surplus under Section 11(1) of the Act and ultimately acquired under Section 15(1) of the Act.

The learned AC to GP-3, appearing on behalf of the respondent nos.1 to 5, on the other hand, submitted that the issues raised herein by the petitioners are issues of facts, which are required to be examined by the statutory authorities. According to him, admittedly, the claims raised herein by the petitioners were not raised before the statutory authority either by the land holder or by these petitioners. Therefore, these issues of facts cannot be gone into in a proceeding filed under Article 226 of the Constitution of India. According to him, for redressal of valid grievances, the petitioners have an alternative remedy under Section 45-B of the Act before the State Government.

The submissions made by the learned State counsel appear to be correct.

In the considered opinion of this Court, the petitioners have an alternative remedy under Section 45-B of the Act for getting the original land ceiling case, initiated and concluded against the original land holder, reopened and for grant of an appropriate relief to the petitioners with respect to the lands claimed by them.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to approach the State Government under Section 45-B of the Act for reopening of the original land ceiling case, initiated and concluded against the original land holder, and for grant of an appropriate relief to them with respect to the lands purchased by them.

It is clarified that, if such a petition is filed by the petitioners under Section 45-B of the Act within a period of six

weeks from today with a certified copy of the present order, then the same shall be entertained by the State Government and shall be decided strictly in accordance with law, but before passing any final order, reasonable opportunity of hearing must be given to all concerned including the land holder and parcha holders, if any.

(Birendra Prasad Verma, J)

Arvind/-

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