

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21568 of 2012

=====

1. Abhi Nandan Das
2. Sheo Nandan Das
3. Jai Nandan Das

All Sons Of Late Bisheshwar Prasad, Resident Of Village- Jiwachpur, P.S.-
Banmankhi, At Present Resident Of Village- Rampur Tilak, P.S.-
Banmankhi, District- Purnea

.... Petitioner/s

Versus

1. The State Of Bihar
2. Member, Board Of Revenue, Bihar, Patna
3. The Collector, Purnea
4. Additional Collector (Ceiling), Purnea
5. Anchal Adhikari, Banmankhi, District- Purnea
6. Anchal Adhikari, Barhara Kothi, District- Purnea

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Adv.

For the Respondent/s : Mr. Ashok Kumar Pathak, AC to GP-XI

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

7 04-03-2016

Heard.

The petitioners, who are the sons of original land holder Bisheshwar Prasad, have filed the present writ petition under Article 226 of the Constitution of India raising a grievance that the order dated 22.05.2004 passed in Board's Case No.65 of 2003 by the Member, Board of Revenue, Bihar, Patna, as contained in Annexure-1 to the writ petition, which has attained its finality in view of the order dated 02.03.2005 passed in CWJC No.8665 of 2004 by a co-ordinate Bench of this Court, as contained in Annexure-2 to the writ petition, has not been fully complied with till date, despite passage of almost 12 years.

It is not in dispute that Land Ceiling Case No.1075/73-74 was initiated by the Additional Collector, Purnea against the original land holder Bisheshwar Prasad Das, the father of the petitioners, wherein final publication of draft statement was



made in terms of Section 11(1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Land Ceiling Act') showing therein that the land holder was having 208.45½ acres of land in all, and he was entitled to have four ceiling units for himself and his other family members including the petitioners. By the aforesaid final publication of draft statement, land holder was allowed to retain 103.26 acres of land and remaining 103.19½ acres of land were declared surplus. Subsequently, a Gazette notification under Section 15(1) of the Land Ceiling Act was issued acquiring those surplus lands to the extent of 103.19½ acres of land. It is also not in dispute that some other connected/consequential proceeding was started before the Collector under the Land Ceiling Act and the matter subsequently traveled upto this Court regarding grant of option to the land holder under Section 9 of the Land Ceiling Act, particularly in view of certain orders passed and notification issued in a connected Land Ceiling Case No.75 of 1973-74/1745 of 1973-74 initiated and concluded against one Gobind Lal Das, the another land holder, from whom the father of the petitioners and their other family members are said to have purchased 53.49 acres of land. It is admitted case of the parties that the dispute was finally resolved by the Member, Board of Revenue, Bihar, Patna by his order dated 22.05.2004 (Annexure-1). The operative part of the order, which includes the direction to the District Collector, Purnea has been enumerated in para 8 of the aforesaid order dated 22.05.2004, as contained in Annexure-1 to the writ petition.

The learned counsel appearing on behalf of the petitioners submits that against the aforesaid order dated 22.05.2004 some of the red card holders approached this Court in



CWJC No.8665 of 2004, but that writ petition was finally dismissed by an order dated 02.03.2005 (Annexure-2). According to the learned counsel, despite the aforesaid order dated 02.03.2005 (Annexure-2) and despite the fact that the petitioners exercised their option in terms of Section 9 (1) of the Land Ceiling Act, the final order has not been passed by the respondent District Collector and possession over the allotted lands has also not been given to the petitioners.

In the present matter, earlier counter affidavit was filed on behalf of the respondent nos. 3 to 6 detailing therein as to why there was delay in complying the order passed by the Member, Board of Revenue. According to the learned State counsel, the petitioners are themselves responsible for delay in execution of the order passed by the Member, Board of Revenue, as they did not submit their option within time. However, when this matter was heard earlier, this Court was not satisfied with the averments made in the aforesaid counter affidavit and by an order dated 13.10.2015, the learned State counsel was directed to file a supplementary counter affidavit bringing on record all the subsequent developments and the consequential action taken by the respondent authorities. In the light of the aforesaid order dated 13.10.2015, supplementary counter affidavit on behalf of the respondent nos.3 to 6 has been filed on 23.02.2016. By referring to the averments made in the aforesaid supplementary counter affidavit, the learned State counsel has pointed out that the respondent District Collector and other concerned authorities have taken several steps for implementing the order dated 22.05.2004 (Annexure-1) passed by the Member, Board of Revenue. He submits that the order of the Member, Board of Revenue has been

complied with by issuing different notifications. However, on going through the contents of the aforesaid supplementary counter affidavit, this Court finds that the order of the Member, Board of Revenue, as contained in Annexure-1, has not been fully complied with till date in its letter and spirit. Though the order has been passed by the Collector under Section 9 of the Land Ceiling Act allowing option exercised by the petitioners, but the possession has not been given to the petitioners over the lands, which have been allowed to be retained by them.

This Court is of the considered opinion that once the order dated 22.05.2004 (Annexure-1) passed by the Member, Board of Revenue, Bihar, Patna has attained its finality, then the respondent District Collector, Purnea has no option but to comply the aforesaid order in its letter and spirit, but that has not been done till date despite passage of almost 12 years. This is really an unfortunate situation.

In the aforesaid factual matrices, the respondent District Collector, Purnea and other concerned authorities of the respondent State are hereby directed to comply the aforesaid order dated 22.05.2004 (Annexure-1) passed in Board's Case No.65 of 2003 by the Member, Board of Revenue, Bihar, Patna in its letter and spirit within a maximum period of three months from the date of receipt/production of a copy of this order.

The writ petition stands finally allowed to the extent indicated above, but without costs.

Arvind/-

(Birendra Prasad Verma, J)

U			
---	--	--	--