

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2346 of 2003

=====

Shyamanand Kumar son of Late Sadanand Kumar, resident of village Dhruvganj,
Police Station Kharik, District Bhagalpur

.... 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 at Sadar Purnia within the district of Purnia
5. The Deputy Collector, Land Reforms at Sadar within the district of Purnia
6. The Anchak Adhikari at Dhamdaha, Police Station Dhamdaha, District Purnia
7. Shri Kailash Singh son of Late Achhe Lal Singh, originally resident of Village Khutti Jageli, Police Station Krityanand Nagar, District Purnia at present at Mohalla Khuskibagh, Police Station Sadar, District Purnia

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate

For the Respondent Nos. 1 to 6 : Mrs. Kumari Amrita, GP 3

Mr. M.K.Upadhyay, AC to GP 3

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 29-07-2016

Heard the parties.

2. The petitioner is aggrieved by the order dated 27.01.2003/29.01.2003 passed in Misc. Case No. 3 of 2003 by the respondent no.3, as contained in Annexure-7 to the writ petition, whereby the aforesaid case filed on behalf of the petitioner under Section 47 of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short, "the Act") has been rejected.

3. The learned counsel appearing on behalf of the petitioner submits that the petitioner was the rightful owner of the lands in question, fully detailed in paragraph 3 of the writ petition, but the lands in question were wrongly included in the land ceiling case no. 1958 of 1973-74 started against the landholder Achhe Lal Singh



and the same was declared surplus under Section 11(1) of the Act. Finally, the lands in question were acquired under Section 15(1) of the Act by a Gazette Notification dated 23.04.1992 (Annexure-3). It is contended that once the petitioner came to know about the declaration of the lands in question as surplus and their acquisition by the State Government under the provisions of the Act, he filed the aforesaid Misc.Case in the year 2003 before the respondent Additional Collector, Land Ceiling, Purnia under Section 47 of the Act with a prayer to exclude the same from the aforesaid land ceiling case, but without considering the case of the petitioner on merits it has been rejected by the impugned order, as contained in Annexure-7, on the ground that the lands in question have been declared as surplus lands of the landholder Achhe Lal Singh and same have been acquired under the provisions of the Act by the State Government by a notification dated 23.04.1992 (Annexure-3).

4. The learned GP 3, appearing on behalf of the respondent nos. 1 to 6, has contested the matter and has submitted that once the lands in question was declared surplus and acquired by the State Government under Section 15(1) of the Act, then the respondent Additional Collector had no power to exclude the lands in question from the aforesaid land ceiling case in exercise of his powers under Section 47 of the Act. According to her, the impugned order cannot be legally faulted. However, she has fairly conceded that the petitioner has an alternative remedy under section 45B of the Act.

5. The submissions made by the learned GP 3 appears to be correct.

6. Admittedly, the lands in question was subject matter of consideration in Land Ceiling Case No. 1958 of 1973-74, but at no point of time any objection was filed under Section 10(3) of the Act

either by the original landholder or by the present petitioner for exclusion of the lands in question from the aforesaid land ceiling case. Indisputably, after conclusion of the aforesaid land ceiling case, the lands in question was declared surplus under Section 11(1) of the Act and finally it was acquired under Section 15(1) of the Act by the Gazette Notification dated 23.04.1992 (Annexure-3). If the petitioner was, at all, aggrieved by the aforesaid orders/notifications, the only remedy available to him was to file a petition under Section 45B of the Act before the State Government for re-opening of the aforesaid land ceiling case and for grant of appropriate relief to the petitioner. The respondent Additional Collector, Land Ceiling, Purnia has rightly rejected the aforesaid case filed on behalf of the petitioner under Section 47 of the Act, which only provides for correction of clerical or arithmetical errors. The claims raised on behalf of the petitioner with respect to the lands in question was not of that nature.

7. In above view of the matter, the writ petition is dismissed, but liberty is granted to the petitioner to approach the State Government under Section 45B of the Act, after impleading all the necessary parties including the original landholder and in case of his death, his heirs and legal representatives, and the parcha holder(s), if any, for grant of appropriate relief(s) with respect to the lands in question.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	01.08.2016
Transmission Date	