

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7392 of 2009

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1. Narain Mandal son of late Shibu Mandal.
 2. Most. Sukho Devi wife of late Gena Lal Mandal, both resident of village- Kursail, P.S. Kadwa, District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Katihar.
3. The Additional Collector, Land Ceiling, Katihar.
4. Safiqurrahman,
5. Rafiqurrahman, both are sons of Late Maula Bux, Both residents of village Kursail, P.S. Kadwa, District Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar 'Ghosarvey'
For the Respondent Nos. 1 to 3 : Mr. M.K. Upadhyay, AC to GP-3
For the Respondent No.5 : Mr. Najmul Hoda, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 09-12-2016

Heard.

The petitioners are aggrieved by the order dated 7.1.2009 passed in Miscellaneous Ceiling Case No. 762 of 2000-01 by the respondent Additional Collector, Land Ceiling, Katihar, as contained in Annexure-1 to the writ petition, whereby in purported exercise of his appellate powers in terms of Rule 44 of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules, 1963 (in short 'Rules 1963'), he has set aside the order of settlement made in favour of the petitioners with respect to the surplus land of the landholder.

The learned counsel appearing on behalf of the respondent no. 5, at the very outset, submitted that against the order impugned, the petitioners have an alternative remedy before the prescribed revisional authority prescribed in Rule 44 of the Rules, 1963 itself, but without exhausting the alternative remedy



of revision, the petitioners have straightaway approached this Court in the present proceeding, which is fit to be dismissed. He further submitted that the claim of the petitioners with respect to the lands in question involves several disputed question of facts and the private respondents had purchased the lands in question much prior to the year 1976.

Submissions of the learned counsel appearing on behalf of the respondent no.5 appear to be correct.

In that view of the matter, the writ petition is dismissed, but a liberty is granted to the petitioners or their heirs, in case of their death, to approach the prescribed revisional authority in terms of Rule 44 of the Rules, 1963 for grant of appropriate relief to them.

The parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question as also the order impugned before the prescribed revisional authority.

(Birendra Prasad Verma, J)

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