

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8485 of 2014

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Sanjha Devi W/o Bhajan Lal Singh, Resident of Village - Lataha, P.S.
Sikty, District - Araria

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Principal Secretary, Land Reform, Government of Bihar, Patna
2. The Commissioner, Purnea Commissioner, Purnea
3. The District Magistrate, Araria
4. The Circle Officer, Sikty, District - Araria
5. The Registrar, District Registry office, Siktry, District - Araria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha

For the Respondent/s : Mr. Rakesh Ambastha, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 15-07-2016

Heard.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of gazette notification No. 36 dated 27.03.1989 issued under the signature of the Collector under The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (In short 'land ceiling Act'), as contained in Annexure-4 whereby large area of lands including the lands in question purchased by the petitioner through a sale deed dated 11.01.1993 (Annexure-1 series) have been declared surplus of the landholders.

Apparently, Land Ceiling Case No. 1 of 1983-84 was started against the original landholder and finally, the aforesaid gazette notification was issued under Section 11(1) of the land ceiling Act declaring the lands in question to be surplus of the landholder. The petitioner purchased the lands in question

subsequently in the year 1993 when the land in question was already declared surplus and was acquired by the respondent State of Bihar.

The writ petition has to fail on three counts; firstly the lands in question were declared to be surplus in the year 1989 and were subsequently acquired by the State Government and had accordingly, vested in the State free from all incumbrances. Therefore, the petitioner could not have purchased the lands in question from a third person by a sale deed of the year 1993 without getting the lands in question excluded from the land ceiling case. Secondly, the notification issued u/s 11(1) of the Land Ceiling Act in the year 1989 cannot be permitted to be challenged after such a long time i.e. after a delay of more than 25 years, and thirdly, in the present proceeding neither the original landholder nor the vendor of the petitioner have been impleaded as party respondents. Even parcha holders have not been impleaded as party respondents. Therefore, the present writ petition suffers not only from delay of more than 25 years and laches on the part of the petitioner, but also suffers from non-joinder of necessary parties.

For the reasons recorded above, the present writ petition is dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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