

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2914 of 2007

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Chandrakant Mishra, son of late Dukh Haran Mishra, resident of Village- Jagavan,
P.S. Bisfi, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Darbhanga.
3. The Additional Collector, Darbhanga.
4. The Deputy Collector, Land Reforms, Sadar, Darbhanga.
5. The Anchal Adhikari, Jalepy, Darbhanga.
6. Pushpa Bhagat, wife of Subhash Bhagat, resident of Katki Bazar, District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemendra Prasad Singh, Sr. Adv.
For the Respondent No.1 to 5: Mrs. Kumari Amrita, G.P. 3
Mr. Rajesh Kumar, AC to G.P. 3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 29-07-2016

Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned G.P. 3 appearing on behalf of the respondent no. 1 to 5. However, despite issuance of notice by order dated 16.1.2009, none appears on behalf of the respondent no. 6.

The petitioner is aggrieved by the order dated 12.9.2006 passed in Miscellaneous Land Ceiling Case No. 70 of 2006-07 by the respondent District Collector, Darbhanga, as contained in Annexure-5 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 Land Ceiling Act) has been rejected on the ground of lack of jurisdiction.

The learned Senior Counsel appearing on behalf of the petitioner submits that the father of the petitioner had purchased the



lands in question through a registered sale deed dated 11.11.1971 from the original landholder Sarswati Devi. He further submits that against the aforesaid land holder Land Ceiling Case No.296 of 1976-77 was started under the provisions of the Land Ceiling Act, in which the lands in question was also included, and after conclusion of the proceeding in the aforesaid Land Ceiling Case, it was declared to be surplus. Subsequently, the lands in question was acquired by the State Government under Section 15(1) of the Land Ceiling Act vide Gazette notification as contained in Annexure-4 to the writ petition. However, it is contended by the learned Senior counsel appearing on behalf of the petitioner that at no point of time, the petitioner was granted any opportunity of hearing before declaring the lands in question to be surplus and before their acquisition. It is next contended that when the petitioner came to know about declaration of the lands in question as surplus and their acquisition by the State Government, he filed a petition under Section 47 of the Land Ceiling Act for its exclusion from the original land ceiling case as also for granting him relief in terms of Section 9(2) of the Land Ceiling Act, but the aforesaid petition filed by the petitioner has been mechanically rejected by the District Collector, Darbhanga by the impugned order dated 12.09.2006 (Annexure-5) without considering the case of the petitioner on merits.

The learned G.P. 3 appearing on behalf of the respondent no. 1 to 5, on the other hand, submitted that, indisputably, in the land ceiling case in question, draft statement was published under Section 10(2) of the Land Ceiling Act showing the lands in question to be of the original landlord, but no objection was filed by the landholder under section 10(3) of the Land Ceiling Act that the lands in question does not belong to her or she has transferred the lands in question in



favour of the petitioner. Therefore, finally it was declared to be surplus to the landholder under Section 11(1) of the Land Ceiling Act. It is also contended that subsequently the land in question was acquired under Section 15(1) of the Land Ceiling Act. She next contended that the claims raised on behalf of the petitioner could not have been examined by the District Collector, Darbhanga under Section 47 of the Land Ceiling Act, as it provides for correction of only clerical or arithmetical errors. It is also submitted that if the petitioner was at all aggrieved by the orders passed by the authorities under the Land Ceiling Act, then only remedy available to him was to file a petition under Section 45B of the Land Ceiling Act for grant of appropriate relief, but that has not been done in the present case.

In view of the aforesaid submissions/objections raised by the learned G.P.-3, appearing on behalf of the State authorities, the learned Senior counsel appearing on behalf of the petitioner, at this stage, seeks permission to withdraw the present writ petition with a liberty to approach the State Government under Section 45B of the Land Ceiling Act for grant of appropriate relief(s) to the petitioner with respect to the lands in question.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

It goes without saying that if an appropriate petition is filed on behalf of the petitioner under Section 45B of the Land Ceiling Act before the State Government within a period of two months from today with a certified copy of present order, after impleading all the necessary parties including the landholder or in case of death of the landholder, her heir and successor as also the parcha holder, if any, then the same shall be considered and decided on its own merits

strictly in accordance with law.

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, before the State Government.

(Birendra Prasad Verma, J)

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