

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16140 of 2014

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Manoj Kumar Sinha, son of late Shyam Narain Sinha, resident of Mohalla- Katira,
P.O. and Police Station- Nawadah, District- Bhojpur, Ara

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary, Land Reforms Department, Bihar, Patna
3. The Collector, Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Adv.

Mr. Santosh Kumar Verma, Adv.

For the Respondent/s : Mr. Md. Harun Quareshi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 16-09-2016

Heard the parties.

The petitioner, who claims to be the son of the original land holder Smt. Durgeshwari Devi, has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 13.08.2012 passed in Case No.1 of 1995-96 by the learned Presiding Officer-cum-Minister, Department of Revenue and Land Reforms, Government of Bihar, Patna (not impleaded as party respondent in the present proceeding), as contained in Annexure-3 to the writ petition, whereby the prayer made on behalf of the petitioner for reopening of the original Land Ceiling Case No.5 of 1973-74/136 of 1980-81 in exercise of his powers under Section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Act') has been rejected. The petitioner is also aggrieved by the order dated 21st May, 2014 passed in B.L.T. Case No.486 of 2013 by the learned Bihar Land Tribunal, Patna, as contained in Annexure-5 to the writ petition,

whereby the aforesaid B.L.T. Case filed on behalf of the petitioner against the order dated 13.08.2012 (Annexure-3) has been dismissed and the prayer for reopening of the original land ceiling case under Section 45B of the Act has been rejected.

It is not in dispute that originally Land Ceiling Case No.5 of 1973-74 was started by the Collector under the Act against one Sri Nand Lal Sahay, in which final order was passed by the respondent D.C.L.R., Buxar declaring certain area of lands to be surplus. Against the aforesaid final order, Land Ceiling Appeal Case No.43 of 1976-77 was filed by aforesaid Sri Nand Lal Sahay, but that was dismissed by the appellate authority, whereafter the matter was taken to the Board of Revenue in Board's Case No.709 of 1977, but during the pendency of the case the land holder Sri Nand Lal Sahay passed away leaving behind his daughter Smt. Durgeshwari Devi, the mother of the present matter, as his heirs and legal representatives. Accordingly, earlier Land Ceiling Case No.5 of 1973-74 was ordered to have abated and, thereafter, Land Ceiling Case No.136 of 1980-81 was started against the substituted land holder Smt. Durgeshwari Devi. In the aforesaid land ceiling case, the lands belonging to the land holder Smt. Durgeshwari Devi either at her paternal place or at her marriage place were subject matter of consideration. After receipt of verification report, a draft statement under Section 10(2) of the Act was published, wherein it was held that the land holder Smt. Durgeshwari Devi was possessing total area of 73.91½ acres of different classes of lands and on their conversion, she was found to be in possession of 67.89 acres of class-I lands. Against the aforesaid publication of draft statement under Section 10(2) of the Act, the land holder filed her objections under Section 10(3) of the Act raising a plea that, in fact, she is entitled to be allotted 7 ceiling units for herself and her other family



members. After consideration of the entire materials placed by the land holder Smt. Durgeshwari Devi and the materials produced by the revenue authorities, and after giving them reasonable opportunity of hearing, final order under Section 10(3) of the Act was passed on 10.07.1982/13.07.1982 by the Additional Collector, Bhojpur, Ara, which has been brought on record as Annexure-1 to the writ petition. By the aforesaid order (Annexure-1), it was held that the land holder Smt. Durgeshwari Devi is entitled to have only one ceiling unit and, therefore, she was allowed to retain 19.88 acres of different classes of land and remaining 44.3½ acres of lands were declared surplus. Accordingly, a direction was issued for final publication of draft statement under Section 11(1) of the Act. From the findings recorded by the authorities, it appears that the aforesaid order (Annexure-1) passed by the Additional Collector, Bhojpur, Ara was not reversed or modified by any other ceiling authorities including the appellate authority as also the revisional authority. The claims raised on behalf of the land holder for allotment of more ceiling units was not accepted by the ceiling authorities.

It is also not in dispute that the original land holder Smt. Durgeshwari Devi, being aggrieved by the order passed by the Collector under the Act, as contained in Annexure-1, and other connected orders, approached this Court by filing CWJC No.6118 of 1992, which was heard by a Division Bench and claim raised on behalf of the original land holder for more ceiling units was not accepted by the Division Bench of this Court and ultimately the writ petition was dismissed.

The learned senior counsel appearing on behalf of the petitioner submits that the original land holder Smt. Durgeshwari Devi, the mother of the present petitioner, filed a Civil Review



No.221 of 1993, which was finally disposed of by an order dated 13.04.1994 (Annexure-2) wherein liberty was granted to file an application under Section 45B of the Act for reopening of the original land ceiling case. It is contended that, accordingly, original land holder filed Case No.1 of 1995-96 before the Hon'ble Minister representing the State Government, but, without considering all the aspects, he has dismissed the case of the petitioner by the impugned order dated 13.08.2012 (Annexure-3). It is next contended that the order passed by the Hon'ble Minister, Department of Revenue and Land Reforms was challenged by the petitioner before this Court in CWJC No.3193 of 2013, but that writ petition was disposed of by an order dated 22.02.2013 (Annexure-4) with a liberty to the petitioner to approach the learned Bihar Land Tribunal, Patna. It is further contended that, in the light of the aforesaid order, the petitioner filed B.L.T. Case No.486 of 2013, but that has finally been dismissed by the impugned order dated 21st May, 2014 (Annexure-5). The submission of learned senior counsel appearing on behalf of the petitioner is that the impugned orders, as contained in Annexure-3, and Annexure-5, are not sustainable since all the issues of facts raised on behalf of the petitioner for grant of additional ceiling unit has not been properly considered. Therefore, it is pleaded that an appropriate direction may be issued for reopening of the original land ceiling case and the orders impugned may be set aside.

The learned State counsel appearing on behalf of the respondents has opposed the prayer and has supported the impugned orders.

After having heard the parties and taking into consideration the entire factual matrices of the present case, this Court finds that the entire claim of the writ petitioner hinges on his plea for



grant of additional ceiling unit for his other family members, who, according to him, were major on 09.09.1970, the appointed date. The submissions made by the learned senior counsel appearing on behalf of the petitioner are patently misconceived and cannot be countenanced. Admittedly, the issue for grant of additional ceiling units for the other family members of the land holder was raised before the original authority i.e. the Additional Collector, Bhojpur, Ara and such claim was rejected way back in the year 1982, vide order as contained in Annexure-1. The land holder, being not satisfied with the orders passed by the ceiling authorities, had approached this Court in CWJC No.6118 of 1992, but that writ petition was dismissed by a Division Bench of this Court and the orders passed by the ceiling authorities were affirmed.

This Court is of the considered opinion that the claim for grant of additional ceiling units for the land holder and his other family members is essentially a question of fact. Unless and until the land holder is in a position to show that his other family members were also major on 09.09.1970 such claim cannot be allowed. Admittedly, these issues of facts were raised by the original land holder, but that was not allowed by the Additional Collector, Bhojpur, Ara vide order as contained in Annexure-1. If the land holder was at all aggrieved, then he could have challenged that order before the appellate forum or the revisional forum in terms of Section 30 and 32 of the Act, but no such orders have been brought on record by the writ petitioner. The issues of facts, which were raised and were finally rejected, cannot be permitted to be raised after such a long time. Furthermore, these issues of facts were considered by the Hon'ble Minister, Department of Revenue and Land Reforms as also by the learned Tribunal, but the petitioner failed to produce cogent materials

for grant of additional ceiling unit and, therefore, his prayer for reopening of the original land ceiling case has been rejected. Now, the issues, which were raised by the original land holder Smt. Durgeshwari Devi and were finally decided by the competent authority rejecting her claim, are sought to be raised after a long time by the present petitioner claiming to be the son of the original land holder. This simply cannot be countenanced.

Furthermore, this Court finds that in the present writ petition a copy of the order of the Writ Court passed in CWJC No.6118 of 1992 has not been brought on record. Even all the necessary parties have not been impleaded as party respondents. The lands, which were declared surplus way back in the year 1982, were distributed amongst the beneficiaries under Section 27 of the Act, but all those beneficiaries have not been impleaded as party respondents. Apparently, the writ petition suffers from non-joinder of the necessary parties.

For the reasons recorded above, this Court does not feel persuaded to accede to the prayer made on behalf of the petitioner in the present writ petition. The writ petition is devoid of merit and is, accordingly, dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.09.2016
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