

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1346 of 2009

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1. Md.Taharun, son of late Md. Mahbood Mian, resident of Chahbachcha, P.S.-Barhara Kothi, District-Purnia.
 2. Md. Aiyub, son of late Keshab Mian, resident of Chahbachcha, P.S.-Barhara Kothi, District-Purnia.
 3. Md.Islam, son of late Samiullah
 4. Md.Juman Mian, son of late Samiullah
- Both nos.3 and 4 are resident of Hathiyondha, P.S.-Bihariganj, District-Madhepura.
5. Md. Ijarail, son of Md.Samsul, resident of Chahbachcha, P.S.-Barhara Kothi, District-Purnia.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnia.
3. The Additional Collector, Land Ceiling, Purnia.
4. The Collector, Saharsa.
5. The Additional Collector, Land Ceiling, Saharsa.
6. The Circle Officer, Dhamdaha, Purnia.
7. Raghubansh Narayan Bhagat, son of late Bishwanath Ram Bhagat @ Bishwanath Bhagat
8. Badri Bhagat @ Badari Prasad, son of late Ram Nath Bhagat @ Ramnath Ram.
9. Deo Kumar Prasad, son of late Kedar Nath Prasad @ Kedar Bhagat.
10. Mossamat Bhagwati Devi, wife of late Chandra Shekhar Bhagat @ Chandra Shekhar Singh
11. Jaishankar Bhagat, son of late Ram Sewak Bhagat
12. Shiv Shankar Bhagat, son of late Ram Sewak Bhagat
13. Sri Ram Bhagat @ Sri Ram Prasad Bhagat, son of late Ganesh Ram Bhagat

All respondent nos.7 to 13 are resident of Raghubansh Nagar Naugachhia, P.S.-Naugachhia, District-Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jagdish Prasad Bhagat, Adv.

For the Respondent nos.1to6 : Mr. M.K.Upadhyay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

4 19-08-2016

Heard the parties.

The petitioners claim to be the purchasers of the lands in question, fully detailed in paragraph 4 of the writ petition.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity



and correctness of the Gazette notification issued under Section 15(1) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Act'), whereby the lands in question, besides other plots of land, have been acquired by the State Government by treating the same to be surplus land of the land holder.

The learned counsel appearing on behalf of the petitioners submits that, at no stage of the ceiling proceeding, the petitioners were given any opportunity of hearing, yet the lands in question were wrongly treated to be that of the land holder and finally declared surplus under Section 11(1) of the Act and ultimately acquired under Section 15(1) of the Act.

The learned AC to GP-3, appearing on behalf of the respondent nos.1 to 5, on the other hand, submitted that the issues raised herein by the petitioners are issues of facts, which are required to be examined by the statutory authorities. According to him, admittedly, the claims raised herein by the petitioners were not raised before the statutory authority either by the land holder or by these petitioners. Therefore, these issues of facts cannot be gone into in a proceeding filed under Article 226 of the Constitution of India. According to him, for redressal of valid grievances, the petitioners have an alternative remedy under Section 45-B of the Act before the State Government.

The submissions made by the learned State counsel appear to be correct.

In the considered opinion of this Court, the petitioners have an alternative remedy under Section 45-B of the Act for getting the original land ceiling case, initiated and concluded against the original land holder, reopened and for grant

of an appropriate relief to the petitioners with respect to the lands claimed by them.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to approach the State Government under Section 45-B of the Act for reopening of the original land ceiling case, initiated and concluded against the original land holder, and for grant of an appropriate relief to them with respect to the lands purchased by them.

It is clarified that, if such a petition is filed by the petitioners under Section 45-B of the Act within a period of six weeks from today with a certified copy of the present order, then the same shall be entertained by the State Government and shall be decided strictly in accordance with law, but before passing any final order, reasonable opportunity of hearing must be given to all concerned including the land holder and parcha holders, if any.

(Birendra Prasad Verma, J)

Arvind/-

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