

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12662 of 2007

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1. Mathura Ray son of Sri Nand Lal Ray
 2. Parmanand Ray
 3. Dhruv Ray, both sons of Rasik Ray, all resident of village Japteli, P.S. Naugachhia, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Bhagalpur.
3. The Deputy Collector Land Reforms, Naugachhia, District Bhagalpur.
4. The Sub-Divisional Officer, Naugachhia, District Bhagalpur.
5. The Circle Officer, Naugachhia, District Bhagalpur.
6. Kapildeo Ray son of Deep Narayan Ray, resident of Village- Japteli, P.S. Naugachhia, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
Mr. Ashok Kumar Yadav, Adv.

For the Respondent No.1 to 5 : Mr. Chandra Shekhar Singh, AC to GA-10

For the Respondent No. 6 : Mr. Janki Nandan Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 12-08-2016

Heard the parties.

The petitioners are aggrieved by the order dated 19.09.2006 passed by the respondent District Collector, Bhagalpur in L.C. Case (Appeal) No. 102 of 93-94, as contained in Annexure-4, whereby the aforesaid appeal preferred on behalf of the respondent no. 6 was allowed and the order dated 19.02.1994 passed by the respondent D.C.L.R., Naugachhia, as contained in Annexure-1, has been set aside and a direction has been issued to distribute the surplus land of the original landholder under Section 27 of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (In short 'the Land Ceiling Act') amongst the eligible persons.

As per the case of the parties, a ceiling surplus case was started against the original landholder Yadunandan Sahu, who



voluntarily surrendered the land in question, besides other surplus lands, under Section 15A of the Land Ceiling Act, whereafter the same was acquired by the State Government by issuing a notification under Section 15(1) of the Land Ceiling Act. The petitioners, claiming to be under-raiyat of the original landholder, did not file any petition in L.C. Form-19 within the statutory period of three months from the date of the vesting of the lands in question in the State, yet after a long time the respondent D.C.L.R. Naugachhia, without considering the scheme and scope of Section 22 (1) of the Land Ceiling Act read with Rule 25 of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules, 1963 (in short Rule, 1963) illegally allowed the claim of the petitioners by order dated 19.02.1994, as contained in Annexure-1. The respondent No.6, claiming to be the purchaser of the lands in question, filed the aforesaid appeal before the District Collector, Bhagalpur, which has been allowed by the impugned order, as contained in Annexure-4. However, the claim raised on behalf of the respondent no.6 with respect to the lands in question has also not been accepted and a direction has been issued for distribution of surplus land amongst the eligible persons under section 27 of the Land Ceiling Act.

In the present case though the petitioners claim to be under-raiyats of the original landholder, but neither the original landholder- Yadunandan Sahu nor his heirs and legal representatives have been impleaded as party respondents in the present proceeding. Therefore, the writ petition suffers from non-joinder of necessary parties. Furthermore, the petitioners have not exhausted the alternative remedy of revision available to them under Section 32 of the Land Ceiling Act. Otherwise also, the

learned counsel appearing on behalf of the petitioners and the learned counsel appearing on behalf of the respondent no.6 have not been able to point out any legal infirmity in the impugned order dated 19.9.2006 (Annexure-4).

After having heard the parties and taking into consideration the materials available on the record, this Court does not feel persuaded to interfere with the impugned order dated 19.09.2006 (Annexure-4) passed in L.C. Case No. 102 of 93-94 by the District Collector, Bhagalpur. The writ petition is devoid of merit and is, accordingly, dismissed.

However, if the surplus lands of the original landholder have not been distributed, then the claim of the petitioners, besides others, may also be considered under section 27 of the Land Ceiling Act, in accordance with law.

(Birendra Prasad Verma, J)

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