

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19880 of 2012

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1. Mostt. Hemwati Devi Wife of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 2. Keshav Singh Son Of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 3. Rajdeo Singh Son of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 4. Udai Shankar Singh Son of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 5. Pankaj Kumar Singh Son of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 6. Renu Devi Daughter of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali
 7. Sabita Kumari Daughter of Late Gopal Singh of Village Bedauli, P.S. & Anchal Lalganj District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Dy. Collector Land Reforms, Hajipur, District Vaishali
3. Rameshwar Sah Son of Ram Ashish Sah of Village Bedauli, P.S. Lalganj District Vaishali
4. Ram Lakhan Mishra Son of Late Satya Narain Mishra of Village Bedauli, P.S. Lalganj District- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

Mr. Rakesh Ambastha

For the Respondent No.1 & 2 : Mr. Amish Kumar, AC to AAG-14

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 20-05-2016

Heard the parties.

The petitioners are aggrieved by the order dated 08.09.2012 passed in Land Ceiling Case No. 33 of 1981-82 by the respondent D.C.L.R., Hajipur, as contained in Annexure-1, whereby the petition filed on behalf of the petitioners under

Section 16(3) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition Surplus Land), Act, 1961 ('Land Ceiling Act') has been rejected for the reasons recorded in that order.

The learned State counsel appearing on behalf of the respondent no. 1 and 2, at the very threshold, submitted that the impugned order is appealable and, therefore, the writ petition, at this stage, is not maintainable.

The learned counsel appearing on behalf of the petitioners has also fairly conceded that the order impugned is appealable under Section 30 of the Land Ceiling Act.

It is well settled principles of law that the issues of facts must be raised and conclusively decided by the statutory authorities and only thereafter, powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioners to approach the prescribed appellate authority under Section 30 of the Land Ceiling Act for grant of appropriate reliefs with respect to the lands in question as also the order impugned.

If such an appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioners for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bonafide legal advice, the present writ petition was filed on 16.10.2012 and that remained pending before this Court till date.

It is clarified that if any of the parties have passed away

during the pendency of the present writ petition, then his/her heirs and legal representatives shall be impleaded as party respondent(s) in the memorandum of appeal filed before the prescribed Appellate Authority and it shall be construed that such deceased person(s) has been substituted by the order of this Court.

(Birendra Prasad Verma, J)

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