

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23658 of 2012

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1. Samundra Singh Son Of Late Ramphal Singh Resident Of Village-Dwarika Bigha, P.S.- Harnaut, District- Nalanda
 2. Vinay Kumar Son Of Late Permanand Singh Resident Of Village-Sirsibarah, P.S.- Harnaut, District- Nalanda
 3. Amrendra Kumar Singh Son Of Pramod Kumar Resident Of Village-Harnaut, P.S.- Harnaut, District- Nalanda
 4. Jayendra Kumar Son Of Pramod Kumar Resident Of Village-Harnaut, P.S.- Harnaut, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary, Department of Revenue And Land Reforms, Government of Bihar, Patna
2. The Collector, Nalanda At Biharsharif
3. The District Land Acquisition Officer, Nalanda At Biharsharif

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli
Mr. Sanket
Mr. Prince Kumar Mishra
For the Respondent/s : Mr. Krishna Chandra, AC to AG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 21-04-2016 In compliance of the order dated 30.10.2015 passed in the present proceeding, a supplementary counter-affidavit on behalf of the respondent no. 2 and 3 was filed on 9th March, 2015, which is available on the record.

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India questioning the validity and correctness of very initiation of a proceeding under Section 4(h) of The Bihar Land Reforms Act, 1950 (In short ‘the Act’) with respect to the lands in question, fully detailed in paragraph-5 of the writ petition.

The learned counsel appearing on behalf of the



petitioners submits that the lands in question was settled by the Ex- Landlord through a Hukumnama dated 15th November, 1941 in favour of one Jagdeo Mahto. It is the case of the petitioners that thereafter aforesaid Jagdeo Mahto was declared as a raiyat and the rent receipt etc. were issued in his favour. Subsequently, the lands in question were transferred through different sale deeds and the petitioners also claim to be subsequent purchasers of some part of the land in question, therefore, according to the learned counsel, the proceeding under Section 4(h) of the Act could not have been initiated.

Per contra, the learned AC to AG appearing on behalf of the respondents has disputed the claim of the writ petitioners. According to him, the validity or otherwise of the Hukumnama in question is yet to be tested and this is subject matter of consideration before the respondent District Collector in the pending proceeding under the Act. It is pointed out that originally the order under section 4(h) of the Act was passed by the District Collector on 17.05.2005 (Annexure-9 to the writ petitioner), whereafter the record was transmitted to the Divisional Commissioner, Patna for further appropriate action.

In the supplementary counter affidavit filed on behalf of the respondent no. 2 and 3, the order passed by the Commissioner, Patna remitting the matter back to the District Collector, Nalanda for passing a fresh order has been brought on record as Annexure-A, From the averments made in the aforesaid counter-affidavit, it appears that in view of the aforesaid remand order, the matter is under consideration before the respondent District Collector, Nalanda and notices have been issued to the present petitioners in the aforesaid proceeding. Annexure-B of the aforesaid counter-

affidavit is the entire order-sheet of the aforesaid proceeding under Section 4(h) of the Act, which is still pending before the respondent District Collector, Nalanda.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the issues of facts must be conclusively decided by the statutory authorities. Indisputably, the petitioners are parties in the pending proceeding before the District Collector, Nalanda and they have already entered appearance. It is not in dispute that the petitioners have also filed their show cause in the aforesaid proceeding under Section 4(h) of the Act.

In above view of the matter, this Court is of the opinion that the interest of justice shall be sub-served if the petitioners are granted liberty to raise all the issues of facts and law before the respondent District Collector, Nalanda with respect to the lands in question, which may be available to them, in the aforesaid pending proceeding under Section 4(h) of the Act.

It goes without saying that the points raised on behalf of the petitioners and the documents produced on their behalf shall be appropriately considered by the respondent District Collector, Nalanda while passing any final order under Section 4(h) of the Act.

With the aforesaid observations and directions, the present writ petition is finally disposed of.

(Birendra Prasad Verma, J)

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