

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25722 of 2013

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Rakesh Kumar Tiwari, S/O Late Anjani Kumar Tiwari, Resident Of
Mahaveer Asthan, Lakhibagh Manpur, P.S. Muffasil, P.O. Buniyadganj,
District Gaya, Bihar.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Aurangabad.
3. The Additional Collector (Ceiling), Aurangabad.
4. Dy. Collector, Land Reforms, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Tiwari (in person)

For the Respondent/s : Mr. Anil Kr Uapdhyay, SC-20

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 22-04-2016

Heard the petitioner, who is appearing in person, as
also the learned State counsel appearing on behalf of the
respondents.

The petitioner is aggrieved by the Gazette
notification dated 10th September, 1991 issued in Land Ceiling
Case No.1 of 1976-77/9 of 1988-89 vide Annexure-2B, whereby
the lands mentioned in the aforesaid Gazette notification have
been acquired under Section 15(1) of The Bihar Land Reforms
(Fixation of Ceiling Area and Acquisition of Surplus Land) Act,
1961 (in short 'Land Ceiling Act').

From the materials available on the record, this Court
finds that the aforesaid Land Ceiling Case No. 1 of 1976-77/9 of
1988-89 was started and concluded against the land holder Swami
Nityanand Bharti. The grievance of the petitioner is that, though
the lands in question, fully detailed in paragraph no.8 of the writ
petition, belong to him, but he was neither given any information

nor any notice was issued to him before passing any final order in the aforesaid land ceiling case started and concluded against the original land holder.

In the present case, the original land holder Swami Nityanand Bharti or his heirs and legal representatives have not been impleaded as party respondents. Therefore, on that ground alone, the writ petition could have been dismissed.

The learned SC-20 appearing on behalf of the respondents points out that since the lands in question were acquired way back in the year 1991; therefore, aforesaid surplus lands have been distributed amongst the beneficiaries, but even those beneficiaries have not been impleaded as party respondents.

It is well settled that once a land ceiling case is started against the land holder and final orders are passed in accordance with law and finally surplus lands are acquired by the State of Bihar under Section 15(1) of the Land Ceiling Act, then the only remedy to any 3rd person is under Section 45-B of the Land Ceiling Act for reopening of the whole land ceiling case and for passing a fresh order after giving an opportunity of hearing to all concerned.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to file an appropriate petition under Section 45-B of the Land Ceiling Act, after impleading all the necessary parties including the land holder as also the parcha holder(s) as party respondents in that case before the State Government for grant of appropriate relief(s).

It goes without saying that, if such a petition is filed on behalf of the petitioner within a period of two months from today with a certified copy of the present order, then the same

shall be considered and decided strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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