

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.770 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 995 of 2003

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Lakshmeshwar Chaudhary, S/o Late Sita Ram Chaudhary, Resident of Village -
Bishanpur Manora, P.S. Bahadurpur, District - Darbhanga.

.... Respondent no. 7 Appellant

Versus

1. The State of Bihar.
2. The Collector, Darbhanga
3. The Additional Collector, Darbhanga
4. The Additional Collector Land Ceiling, Darbhanga.
5. The Land Reforms Deputy Collector, Sadar, Darbhanga.
6. Mithileshwar Chaudhary, S/o Late Jibachh Chaudhary, Resident of Village -
Bishanpur Manora, P.S. Bahadurpur, District - Darbhanga.
7. Kameshwar Chaudhary

**(Since dead, substituted by following heirs and legal representatives vide
Court's order dated 21.10.2016 passed in I.A. No. 6731/2016)**

- 7(i) Sunaina Devi W/o Late Kameshwar Chaudhary
- 7(ii) Shyam Nandan Chaudhary
- 7(iii) Pankaj Kumar Chaudhary
Both sons of late Kameshwar Chaudhary,
All resident of Village Bishanpur Manora, P.S. Bahadurpur, District
Darbhanga.
- 7(iv) Nutan Mishra, W/o Rajesh Mishra, D/o Late Lameshwar Chaudhary, R/o
Village + P.O. – Muraita, P.S. Jaley, District Darbhanga
- 7(v) Sabnam Jha, W/o Mithilesh Jha, Late Kameshwar Chaudhary, R/o Village +
P.O. Sorath, P.S. Rahika, District Darbhanga.

8. Bhubneshwar Chaudhary

9. Jibneshwar Chaudhary

10. Kamleshwar Chaudhary

All sons of Late Jibachh Chaudhary,

All resident of Village - Bishanpur Manora, P.S. Bahadurpur, District - Darbhanga.

.... Petitioners / Respondents 2nd Set.

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Appearance:

For the Appellant/s : Mr. Bhubneshwar Prasad, Advocate.

For the Respondent/s : Mr.

For the private Respondents: Mr. Sachchidanand Choudhary and

No. 7(i) to 7(v) Mr. Love Kush Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-07-2017

Heard counsel for the appellant and counsel for the private



respondent.

Perused the order impugned dated 02.08.2010.

The first contention, which has been raised by the counsel for the appellant, is that he was not issued notice even though he was a party in the Writ Application. This position is not disputed. The verification of the record does reflect that position.

However, instead of setting aside the order on that ground and remanding the matter back for fresh consideration which should have unnecessarily extended the litigation if not expanded, we decided to hear the issue raised before the Writ Court *de novo* to understand the grievance which the appellant has against the order impugned.

The apprehension which the counsel has on behalf of the appellant with regard to the land relating to which the ceiling proceeding has been initiated and where two units were initially authorized in no way gets affected by the order of the learned Single Judge on question of setting aside the order of the LRDC and referring the matter to the Collector, Darbhanga as to identify the land with regard to Khata, Khesra, Area, which have got clubbed with Land Ceiling no. 31/1974-75 or with regard to Land Ceiling no. 2/1976-77.

From perusal of the records it is evident that there were certain infirmities with regard to the land and measurement of the total area which will have a fall out upon the right and interest of the



appellant as well as the private respondent. It is to ensure that no further litigation arises subsequently after the declaration of the surplus area in the two ceiling proceedings that the Court remitted the matter giving liberty to the parties where the appellant too can very well join the proceeding and help in sorting out the confusion created with regard to identity of the land and the area.

We are satisfied that no serious prejudice has been caused to the appellant by non-issuance of notice or keeping in mind the nature of the order which has been passed by the learned Single Judge which is not working to the detriment or the interest of the appellant.

The appellant would be well advised to co-operate and assist the Collector along with the private respondent in identifying the land, area, which is required to accrue in his favour and the one which is required to be declared surplus.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Dilip, AR

(Rajeev Ranjan Prasad, J)

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