

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2028 of 2016
IN
Civil Writ Jurisdiction Case No. 11851 of 2014**

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Prabhash Kumar Pratap, Son of Bajendra Prasad Yadav, resident of village - Chandpur (West) Sameli, Police Station Falka, District – Katihar.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The Chairman of the Bihar Land Tribunal at Patna.
3. The Collector of the District of Katihar.
4. The Sub Divisional officer at Katihar District Katihar.
5. The Deputy Collector Land Reforms at Katihar District Katihar.
6. The Anchal Adhikari, Sameli within the District of Katihar.
7. Shri Hari Prasad Agrawal Son of Late Khet Lal Seth.
8. Nand Kishor Agrawal Son of Late Prithwi Chand Agrawal.
9. Shambhu Prasad Agrawal Son of Late Shri Prasad Seth.
10. Jagdish Prasad Agrawal Son of Late Shri Prasad Seth.
11. Dwarika Pd Agrawal Son of Late Baidyanath Prasad Agrawal.
12. Rajesh Agrawal Son of Late Bhola Prasad Agrawal.
13. Jitendra Agrawal Son of Late Tara Chand Agrawal.
14. Om Prakash Agrawal Son of Late Janki Prasad Agrawal
No. 7 to 14 residents of village - Kursela, Police Station Kursela, District - Katihar
15. Shri Jai Kant Yadav Son of Mani Lal Yadav
16. Shri Nirmal Yadav Son of Late Mani Lal Yadav
No. 15 and 16 residents of village - Morsanda Chandpur, Police Station Korha, District - Katihar

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Arun Prasad Ambastha, Advocate Mr. Binay Kumar Sinha, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG-12 Mr. Fakhruddin Ali Ahmad, AC to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-07-2017

Seeking exception to an order dated 09.09.2016 passed by
the Writ Court in Civil Writ Jurisdiction Case No.11851 of 2014; this



appeal has been filed under Clause 10 of the Letters Patent.

The writ petition in question was filed challenging an order dated 18th December, 2013 passed by the Bihar Land Tribunal, Patna in B.L.T. Case No.184 of 2013. In Land Ceiling Case No.27 of 1976-77 initiated against the original land owner Shri Hari Prasad Agrawal and his other co-sharers, action was taken in accordance to a Notification issued on 07.01.1976 under Section 15(1) of the Land Ceiling Act and as a result of the consequence, the land stood vested with the State of Bihar free from all encumbrances. It was the case of the petitioner before the Writ Court that the land in question besides various other plots of land were sold by the original land owner Shri Hari Prasad Agrawal, respondent No.7, in the year 1965 in favour of certain persons through certain sale deeds, but these transferees were not given opportunities to hear in the aforesaid Ceiling Case, yet the land in question was acquired by the State of Bihar and was thereafter distributed between respondent Nos.15 and 16 in terms of Section 27 of the Land Ceiling Act. It was the case of the petitioner, the appellant herein, in the writ petition that the land in question was purchased by him from one Shri Nivas Yadav and Kailash Yadav on 13.12.2012, who were original purchasers of the land from the land owner Shri Hari Prasad Agrawal, respondent No.7. It is the case of the petitioner that after he purchased the land on 13.12.2012 and when he came to know



about the acquisition in question in the aforesaid Land Ceiling Case, he approached the Tribunal in the year 2013 in the case in question bearing B.L.T. Case No.184 of 2013 for reopening of the original Land Ceiling Case and for grant of appropriate relief to him. When this was rejected, the writ petition was filed and the learned Writ Court has also dismissed the writ application.

Even though, learned counsel tried to indicate by referring to various dates that the original transferees of the land who had purchased the land from the land owner in the year 1965 were never heard and consequently, the petitioner had a right to seek reopening of the matter, we are of the considered view that the learned Writ Court has taken note of the fact that by virtue of the Notification issued under Section 15(1) of the Land Ceiling Act on 07.01.1976, the land was surrendered by the land owner including the lands in question, they were vested in the State of Bihar and after recording the following finding, learned Writ Court dismissed the writ petition:

“6. After having heard the parties and taking into consideration the factual matrices of the present case as also the findings recorded by the learned Tribunal, this Court finds that admittedly, Gazette notification under Section 15(1) of the Land Ceiling Act was issued on 7.1.1976, as a result of which, the lands surrendered by the landholder including the lands in question vested in the State of Bihar free from all encumbrances w.e.f. 7.1.1976. Despite issuance of aforesaid notification dated 7.1.1976, so-called purchasers Shri Nivas Yadav and Kailash Yadav did not challenge the aforesaid notification before the authority under the Land Ceiling Act or before this Court. In fact, in view of passage of more than three decades, it is apparent that they accepted the finality of



the orders passed by the ceiling authority. Suddenly, after 36 years from the date of issuance of notification under Section 15(1) of the Land Ceiling Act, they transferred the lands in question in favour of the petitioner through registered sale deed dated 13.12.2012. Admittedly, on 13.12.2012 aforesaid Shri Nivas Yadav and Kailash Yadav were having absolutely no legal rights over the lands in question. Therefore, the transfer made by them was illegal and void ab initio. In above view of the matter, the learned Tribunal has rightly rejected the petition filed on behalf of the petitioner by the impugned order dated 18th December, 2013. No case for interference is made out.

The writ petition is devoid of merits and is, accordingly, dismissed, but without costs.”

In our considered view, in doing so, the learned Writ Court has not committed any error warranting reconsideration. The concurrent order passed by the Tribunal and the affirmed by the learned Writ Court being in accordance to the requirement of law, we see no reason to make any indulgence into the matter. The appeal is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
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