IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1424 of 1997

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1(a) Sanjay Kumar, son of Late Ram Sugarath Thakur @ Ram Sagath Thakur, resident of Village- Sukhbasi, P.S. Harlakhi, district- Madhubani.
2. Ram Chandra Thakur.
3. Deo Chandra Thakur.
4. Vijoy Chandra Thakur @ Vijay Kumar Thakur.
   All (Sl. Nos. 2 to 4) are sons of late Ganga Thakur.
5. Jamuna Thakur (since deceased & expunged)
6. Ram Padarath Thakur, son of Jamuna Thakur.
7. Vinod Thakur, son of Ram Padarath Thakur.
   All are residents of village- Sukhbasi, PS- Harlakhi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, Sitamarhi.
4. The Collector, Madhubani.
5. The Additional Collector, Sitamarhi.
6. The Sub-divisional Officer, Benipatti.
7. The Deputy Collector, Land Reforms, Benipatti, district- Madhubani.
8. The Anchal Adhikari, Harlakhi, district- Madhubani.
9. Mahanth Radhanandan Das, Chela of Mahanth Sudarshan Das of village- Birpur, PO- Sursand, PS-Sursand, District- Sitamarhi.
10. Sampati Paswan, son of Bilat Paswan.
11. Biltu Paswan, son of Baldeo Paswan.
12. Makhran Paswan, son of Newait Paswan.
13. Shatrughan Paswan, son of Babaji Paswan.
14. Dukhwa Paswan, son of Budhdhu Paswan.
15. Aghanu Paswan, son of Baldeo Paswan.
16. Lakhan Paswan, son of Babaji Paswan.
17. Dukhi Paswan, son of Prayag Paswan.
18. Bipat Paswan, son of Singheshwar Paswan.
19. Ganeshi Paswan, son of Ram Rattan Paswan.
20. Ramji Sada, son of Khattar Sada.
    Respondent no.10 to 20 are resident of village- Siswani, PO- Basopatti, PS- Harlakhi, District- Madhubani.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Vishwanath Pd. Sinha, Sr. Adv.
Mr. Nand Kishor Singh, Adv.

For the Respondent-State: Mr. Mukand Mohan Jha, AC to GP 27
For the Private Respondents: Mr. Ramchandra Lal Das, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 08-10-2018

Heard Mr. Vishwanath Prasad Sinha, learned senior counsel appearing for the petitioners along with Mr. Nand Kishor Singh, Advocate on record, Mr. Mukand Mohan Jha, learned Assisting Counsel to Government Pleader No.27 for the State and Mr. Ramchandra Lal Das, learned counsel appearing for the respondent nos.10 to 20. There is no representation on behalf of respondent no.9.

Seven petitioners had originally filed this writ petition for issuance of a writ in the nature of certiorari for quashing the order dated 14.10.1996 of the Additional Member, Board of Revenue, Bihar, Patna in Board Revision Case No. 118 of 1995, whereby while dismissing the revision application he has upheld the order dated 18.02.1993 passed by the Additional Collector, Sitamarhi in Miscellaneous Case No.7 of 1991/4 of 1991 and the order of the Collector, Sitamarhi dated 18.09.1995 passed in Land Ceiling Appeal Case No.2 of 1993 after reopening the proceedings at the instance of the petitioners under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act').

During the pendency of the writ petition, two of the petitioners i.e. petitioner no. 1 Ram Sugarath Thakur @ Ram Sagath Thakur and petitioner no.5, Jamuna Thakur have deceased. While the petitioner no.1 has been substituted by his son, the son of petitioner no.5 is already on record as petitioner no. 6 and thus his name has been deleted under the order of this Court passed on 18.01.2018.

This writ petition was admitted for hearing vide order passed on 27.01.1999 with a conditional interim order in favour of the petitioners that if the petitioners have not been dispossessed as until passing of the interim order on 27.01.1999 they shall not be dispossessed from the disputed land until the disposal of the writ petition.

The facts as noted from the writ proceedings are that a land ceiling proceeding was initiated against the Guru of the respondent no.9, Late Mahanth Sudarshan Das under the provisions of 'the Act' in L.C. Case No.1/73-74 at Sitamarhi which included the land situated in other district including the district of Madhubani which is the subject matter of the present writ petition.

According to the writ petitioners, the ceiling proceedings included such plots of land which had been purchased by the petitioners or their forefathers much prior to the cut-off date i.e. 22.10.1959 and though Section 5(1)(iii) of 'the Act' casts an obligation on the statutory authorities to examine this aspect of the matter, yet mechanically the objections have been rejected and proceedings have been dismissed.

Mr. Sinha, learned senior counsel appearing for the petitioners has invited the attention of this Court to the details of the land and the dates of transaction which took place as discussed in paragraphs 5 to 12 of the writ petition to submit that all the purchases from the Mahanth are of the period prior to 22.10.1959 and thus these plots should not have been included in the ceiling proceedings. He submits that the mechanical nature with which obligation has been discharged is manifest from the fact that it also includes such plots which have been purchased by the petitioners from vendors other than Late Mahanth Sudarshan Das, the Guru of respondent no.9. He submits that consequent upon the purchase that these petitioners got their names mutated in the Revenue Records and are also drawing rent-receipts therefore but without any notice or opportunity of hearing that the lands were declared surplus vide notification issued under Section 15(1) of 'the Act' by the respondent authorities in the Revenue and Land Reforms Department and it is only when the Amin started measuring the land in question that for the first time these petitioners gathered knowledge about the proceeding in question whereafter making inquiries into the matter they approached this Court in CWJC No. 6612 of 1990 which was disposed of with a liberty to the petitioners to approach the Collector, Sitamarhi under the provisions of Section 45B of 'the Act' vide order passed on 04.01.1991.

It is stated that thereafter the petitioners approached the Collector, Sitamarhi by invoking section 45B of 'the Act' giving rise to Misc. Case No.7 of 1991. The Collector, Sitamarhi after accepting the application of the petitioners filed under Section 45B of 'the Act' reopened the proceedings and transferred the matter for disposal by the Additional Collector, Sitamarhi which was numbered as Miscellaneous Case No.7 of 1991/4 of 1991. The Additional Collector by his order dated 18.02.1993 rejected the claim of the petitioners, a copy of which is present at Annexure-3 to the writ petition. Feeling aggrieved the petitioners moved the Collector, Sitamarhi in appeal bearing L.C. Appeal No.02 of 1993 which again was dismissed by the Collector, Sitamarhi vide order passed on 18.09.1995 at Annexure-4 and which order of the statutory authorities has been confirmed by the Additional Member, Board of Revenue while dismissing the revision preferred by the petitioners bearing Revision Case No.118 of 1995 vide order passed on 14.10.1996 impugned at Annexure-5. Feeling aggrieved, the petitioners are before this Court.

Although this Court taking note of the provisions underlying Section 15 of the Bihar Land Tribunal Act, 2009, intended to transfer the proceedings for adjudication by the Tribunal constituted thereunder but in the nature of the issues advanced by Mr. Sinha to question the impugned order which finds support from the pleadings on record and which requires re-examination of the matter at the original stage of the Additional Collector, that this Court was persuaded to give a hearing to the contesting parties and whereupon the matter has been heard.

It is the argument of Mr. Sinha that the lands are situated in the district of Madhubani and each of the purchase was by a registered sale deed, supported by an order of mutation and whereafter rent-receipts are also being issued by the competent authorities of Revenue Department in the district of Madhubani which relevant aspect of the matter has neither been discussed by the Additional Collector, Sitamarhi nor the superior authorities have bothered to exercise their jurisdiction as mandated under 'the Act' to hold enquiry for examination into its veracity. He submits that the Additional Collector, Sitamarhi should have held enquiry into the issues raised by the petitioners from the concerned authorities in the district of Madhubani before rejecting the contentions but he has been mechanical in his rejection and which mechanical approach has been perpetuated by the superior statutory authorities.

According to Mr. Sinha, the orders though have been passed against the petitioners but by virtue of the interim order they continue to hold the possession. This contention of Mr. Sinha has been opposed by Mr. Das, learned counsel appearing for the purcha-holders who have been distributed the land after being declared surplus. According to Mr. Das, the petitioners are not even aware of the plots in question and thus are also not aware that the purcha-holders in whose favour the land has been distributed are occupying their respective settlement.

The learned State Counsel opposing the prayer has submitted that the transactions are not worthy of reliance because none of the petitioners could establish their claim during hearing and thus it has been rejected.

I have heard, learned Counsel for the parties and I have perused the records and the only issue which, in my opinion, comes up for consideration is that whether the claim raised by the petitioners of a valid transaction prior to 22.10.1959 requires more serious attention than as reflected in the orders impugned.

A perusal of the specific statement present on the writ proceeding would confirm that the petitioners are not exercising their rights on oral settlement or oral transfer of the respective plots rather their claim is resting on registered documents as well as orders of mutation passed on the basis of these documents which are of dates much prior to the cut-off date of 22.10.1959, which gives a protection to the transaction. The objection raised by the learned State Counsel and Mr. Das, learned counsel appearing for the private respondents may be correct but then, the contesting stand has to be adjudicated upon purposefully and be disposed of by a speaking order which essential obligation of discharge is missing in the present case.

Section 45B of 'the Act' which vested the State Government to call for and examine the records of any proceedings which has been disposed of by the Collector under 'the Act' has since been deleted vide Amendment Act 18 of 2016 but then that stage in so far as the present case is concerned, has crossed over because the proceedings have already been reopened and it is discharge subsequent thereto which has been put to question before this Court.

Considering that the land ceiling proceedings have been initiated against the Guru of respondent no.9, late Mahanth Sudharshan Das who was stationed in the district of Sitamarhi and considering that the proceedings included the lands situated in the district of Madhubani as well, as claimed by these petitioners, in my opinion, either this aspect of the matter has escaped notice of the statutory authorities or they have not applied themselves to this contentious issue because it is not reflected in the orders impugned. Section 5 of 'the Act' relied upon by Mr. Sinha to canvass his contentions enables the Collector under 'the Act' to hold inquiry into the issue of surplus land and in so far as the present case is concerned, the fact that these petitioners claim purchase made in the year 1948 or prior thereto, the matter required serious attention.

In my considered opinion, the Collector, Sitamarhi having reopened the proceedings under Section 45B of 'the Act' on such liberty being granted to the petitioners by this Court, the proceedings thereafter had to be carried forward with much more seriousness than being reflected in the impugned orders which are nondescript and do not answer even a single issue which has been taken note of hereinabove and obviously must have been canvassed by the petitioners before the statutory authorities. The mechanical approach is confirmed all through until the Board of Revenue.

For the reasons so discussed, I am satisfied to record that the matter requires reconsideration and as a consequence the order dated 14.10.1996 of the Additional Member, Board of Revenue, Bihar, Patna passed in Board Revision Case No. 118 of 1995 impugned at Annexure 5, the order dated 18.02.1993 passed by the Additional Collector, Sitamarhi in Miscellaneous Case No.7 of 1991/4 of 1991 impugned at Annexure 3 and the order of the Collector, Sitamarhi dated 18.09.1995 passed in Land Ceiling Appeal Case No.2 of 1993 impugned at Annexures 4 are quashed and aside.

The matter is remitted to the Additional Collector, Sitamarhi for proceeding afresh in the matter and disposal in accordance with law. The parties would appear before the Additional Collector, Sitamarhi along with a copy of this judgment and order on or before 26th of November, 2018 and whereafter the Additional Collector, Sitamarhi would proceed to dispose of the matter in accordance with law. In case these contesting parties or either of them, do not appear on 26th of November, 2018, the Additional Collector would be at liberty to proceed in the matter for its disposal accordingly bearing in mind the issues noted hereinabove.

The writ petition is allowed accordingly.

(Jyoti Saran, J)

SKPathak/Archana

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13-102018
Transmission Date	NA