

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4065 of 2015

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Mithilesh Prasad Singh S/o Late Shyam Nandan Prasad Singh, resident of
village- Bishanpur, P.S.- Saharghat, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani
3. The Sub Divisional Officer, Benipatti, District- Madhubani
4. The Anchaladhikari, Saharghat, District- Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar
For the Respondent/s : Mr. Ajay- Gal2

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 13-09-2018

Heard both sides.

2. The petitioner has filed this writ petition for a direction to the respondents to allow the petitioner to retain the lands of his choice as provided under Section 9 of the Bihar Land Ceiling (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act') and for a further direction to the respondents to dispose of the case after allowing the petitioner to exercise his choice for retaining the lands of his own choice.

3. The learned counsel for the petitioner submits that Land Ceiling Case No.08/16 of 1973-74 was initiated against Shyam Nandan Singh, the father of the petitioner. The father of the



petitioner filed return and it was found that the land holder possessed 44 acres and 77 decimals of land and the land holders are entitled to get three units. Accordingly, the land ceiling proceeding was dropped on 28.05.1976 but on 01.08.1979, the land ceiling case was reopened under Section 45(B) of the Act and the Sub-divisional Officer, Benipatti vide order dated 29.05.1992 declared 49½ acres of land as surplus and accordingly, only one unit was granted to the father of the petitioner and no unit was granted to the grandfather of the petitioner on the ground that grandfather of the petitioner died on 06.10.1979. The unit granted to the petitioner was denied on the ground of his minority on 09.09.1970. Accordingly, the Collector issued final publication under Section 11(1) of the Act vide order dated 20.07.1992 and vide order dated 06.08.1992, 50.41½ acres of land was declared surplus and notification under Section 15(1) of the Act was published in the Official Gazette on 19.08.1992. The land belonging to the father of the petitioner was distributed and *purcha* were issued. The petitioner filed CWJC No.10577 of 1992 and the same was allowed by a Bench comprising Hon'ble Mr. Justice S.B. Sinha and Hon'ble Mr. Justice R.M. Prasad, the then, vide order dated 05.03.1993 and quashed the impugned order with a direction to determine the matter afresh in accordance with law.



The respondents again passed the similar order after allowing only unit to the father of the petitioner. The petitioner again filed revision before the Member, Board of Revenue vide Revision Case No.44 of 1995 but the same was dismissed on 21.12.1998. The petitioner filed CWJC No.1539 of 1999 and the respondents were restrained from distributing the lands. The aforesaid writ petition was disposed of on 13.04.2010 with a direction to consider the case of the petitioner for the purpose of granting an additional unit to the grandfather of the petitioner if he was alive on 09.09.1970. Accordingly, two unit was allowed. The petitioner filed petition for exercising his option to retain the lands as provided under Section 9 of the Act but the case is pending.

4 The respondent-State filed counter affidavit and in sum and substance submitted that the petitioner filed numbers of the plots and prayed for retain of those plots according to his choice but it transpired during the hearing of the case that the petitioner and his other family members have transferred many lands to different persons during the pendency of the case.

5. It appears from the submissions of both sides that admittedly the petitioner was granted two units, one unit to his father and one unit to the grandfather of the petitioner. The petitioner filed the petition mentioning his choice for retaining the



lands and the same is pending. It goes without saying that the petitioner is entitled to retain the lands of his own choice within units and if on inquiry it is found that the petitioner has transferred some lands in favour of others in order to defeat the object of this Act, the same land is liable to be included in the unit of the petitioner but at the same time the authority is bound to dispose of the ceiling case after allowing the petitioner to exercise his option for retaining the lands within a reasonable period preferably within four months from the date of receipt of this order. Accordingly, I dispose of this writ petition with a direction to the authorities to dispose of the ceiling proceeding preferably within four months from the date of receipt of this order after allowing the petitioner to exercise his option for retaining the lands as provided under Section 9 of the Act.

6. Accordingly, this writ petition stands disposed of with the aforesaid direction.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2018
Transmission Date	NA

