

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2346 of 2016

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1. Manju Chaturvedi wife of late Dhirendra Nath Chaturvedi
(Petitioner No. 1 in C.W.J.C. No. 1596/96)
 2. Dharmendra Chaturvedi @ Dharmendra son of late Dhirendra Nath Chaturvedi
(Petitioner No. 1 in C.W.J.C. No. 1596/96)
 3. Raghvendra Nath Chaturvedi son of Ramnidhi Chaturvedi,
(Petitioner No. 3 in C.W.J.C. No. 1596/96)
All resident of village Nawabganj, Police Station Fulkaha (Narpatganj),
District Araria

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar,
Patna Sri Anjani Kumar Singh.
2. Sri Himanshu Sharma, the Collector, Araria, District-Araria.
3. Sri Sanjay Kumar, Sub-Divisional Officer, Araria, District- Araria.
4. Sri Vikas Kumar, Deputy Collector, Land Reforms, Araria, District-Araria.
5. Sri Anil Kumar, Sub-Divisional Officer, Forbesganj, Araria, District-Araria.
6. Sri Mukesh Kumar Singh, Deputy Collector, Land Reforms, Forbesganj,
District-Araria.
7. Sri Daya Shankar Tiwari, Anchal Adhikari, Narpatganj, Disri- Araria.
8. Amod Kumar Sharan, Additional Collector, Araria, District-Araria.

..... Contemnors...Opposite Parties

(Respondent No. 1 to 8 in C.W.J.C. No. 1596/96)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. A. K. Mallick, Adv.
Mr. Murlidhar Roy, Adv.
Mr. A.P. Ambastha, Adv.

For the Respondent/s : Mr. Prabhakar Jha, GP-27
Mr. Hari Mohan Mishra, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 10-09-2018

Heard learned counsel for the parties.

This application has been preferred seeking initiation
of a proceeding of contempt against the opposite parties for the



alleged willful disobedience of the order dated 30.07.2015 passed by the learned writ court in C.W.J.C. No. 1596 of 1996.

It appears that pursuant to a land ceiling proceeding the family of this petitioner was granted certain units and after giving those units the rest of the land were declared surplus, the notification under Section 15 (1) of the Ceiling Act was issued accordingly, but thereafter a proceeding under Section 45-B was initiated and the unit allotted to the family of the petitioner was sought to be reduced in terms of the order dated 02.01.1987 passed by the Sub-Divisional Officer, Araria in Land Ceiling Case No. 175/74-75.

Being aggrieved by the order dated 02.01.1987 passed by the S.D.O. the petitioners moved this court in its writ jurisdiction giving rise to the writ application being C.W.J.C. No. 1596/1996. During pendency of the said writ application when fresh notification under Section 15 (1) was issued and the land now declared surplus were sought to be distributed, the petitioners complained the same before this Court and in the process the District Magistrate, Araria was called upon in this Court and on being informed by the District Magistrate, Araria that he will not give effect to the notification which has taken place pursuant to the order dated 02.01.1987, a learned co-ordinate bench of this



Court recorded the same and let him go at that stage. On final adjudication C.W.J.C. No. 1596 of 1996 was allowed. The learned writ court set aside the order dated 02.01.1987 and while declaring so that the order dated 02.01.1987 is *void-ab-initio*, the learned writ court held that all subsequent proceedings and notifications based thereon and arising there from are also bad and cannot be sustained. The learned writ court observed that the order of the Sub-Divisional Officer and all consequential orders in the said ceiling proceeding including the notification being issued thereafter are consequently quashed.

While addressing this Court at this stage in the contempt jurisdiction, learned counsel representing the petitioners submits that even though the learned writ court has quashed all the subsequent notifications but the fact remains that the District Magistrate and the authorities of the State are acting on the basis of those notifications and the land which have been declared surplus under those notifications are being distributed or being encroached upon. It is submitted that even though the fresh proceeding has been initiated from the prior date, the petitioners were not served with any notice with regard to the fresh proceeding and, therefore, they have not appeared in that proceeding.



On the other hand, learned counsel representing the State submits that in fact after quashing of the order dated 02.01.1987 and the subsequent notifications, the State-opposite parties have not done anything to give effect to the notifications issued on the basis of the order dated 02.01.1987 rather what they are doing is that they are proceeding with the land ceiling case from a prior date and even notices in this regard were issued to the opposite parties but as admitted by way of pleadings itself, they are residing outside the State and have not participated in the proceeding so far. It is submitted that the plea of the learned counsel for the petitioners that the land which they are looking for should be de-notified is based on a fallacy of argument because once the learned writ court has quashed all subsequent notifications, there is no question of any de-notification of the land which form part of the notifications which already stand quashed. It is submitted that the petitioners are in fact looking for an exercise in futility.

Having heard learned counsel for the parties and on perusal of the records this court is of the considered opinion that no case for contempt is made out against the State-respondents. Even though a plea is being taken on behalf of the petitioners that the authorities of the State are acting in the matter of distribution



of land based on the notifications issued pursuant to the order dated 02.01.1987, on record there is no clinching material to prove that any such action has been taken by the State. On the contrary they have taken a stand before this Court that they are not acting on the basis of those notifications which have already been quashed. As regards the proceeding initiated afresh, again learned counsel for the petitioners does not question that proceeding on the ground of violation of order of the learned writ court. It is for them to participate in the proceeding, if they have not participated.

This contempt application is thus, disposed off in terms stated hereinabove.

(Rajeev Ranjan Prasad, J)

Ved/-

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