

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3306 of 2015**

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1. Anima Dixit W/o of Bansidhar Dixit Resident of Village +Post+P.S.- Malaypur, District Jamui, State- Bihar.

2. Prapti Devi Wife of Madan Mohan Soti Resident of Heth Manpur, Joda Masjid, Pandit tola, P.O. +P.S.- Buniyadganj, District- Gaya, State- Bihar.

3. Manish Kumar Tiwari Son of Nand Kishore Tiwari Resident of Village +P.O.- Jagdishpur, Peda toli, Ward no. 1, District Bhojpur, state- Bihar.

4. Gairma Mishra Wife of Sanjeev Kumar Mishra Resident of Village+ Post +P.S.- Sitamarhi Janki Asthan, District- Sitamarhi, State-Bihar.

5. Mahima Devi Wife of Shiv Kumar Sharma Resident of Malviya Nagar, P.O. +P.S.- Padrauna, District- Kushi Nagar, State- Uttar Pradesh.

6. Nand Kishore Tiwari Son of Shri Sukhdeo Tiwari resident of Village- Jagdishpur, P.S- Jagdishpur, District- Bhojpur (Bihar).... .... Petitioner/s

Versus

1. The State of Bihar

2. Collector-cum-District Magistrate , Bhojpur at Ara.

3. Sub Divisional Officer, Jagdishpur, Bhojpur at Ara,.

4. Circle Officer, Jagdishpur, Bhojpur at Ara.

5. Dadan Ram Son of Radha Ram Resident of Village- Sonvarsa, P.S. - Dhangai, District- Bhojpur.

6. Barmeshwar Ram, S/o Late Baban Ram, Resident of Village- Sonvarsa, P.S. -Dhangai, District- Bhojpur.

7. Chintu Devi, W/o Late Baban Ram,

8. Ramesh Ram,

9. Most. Shanti Devi wife of late Mangani Ram

10. Suresh Paswan Son of late Mangani Ram Both Resident of Village- Jagdishpur, P.S. Jagdishpur, District Bhojpur.

11. Sanjay Paswan Son of Sri Basant Ram Resident of Village- Jagdishpur, P.S. Jagdishpur, District Bhojpur.

12. Lallan Ram son of Radha Ram Resident of Village- Sonbarsa, P.S. Dhangai, District Bhojpur.

13. Ramashankar Ram Son of Sahdeo Ram

14. Bhim Ram Son of Budhan Ram Resident of Village- Jagdishpur, P.S. Jagdishpur, District Bhojpur. .... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. advocate

For the State : Mr. SC18- N. Hoda Khan

For the pvt. Respondents : Mr. T. N. Matin, Sr. advocate

Mr. Arun Kumar Ambastha, advocate

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR**  
**JHA**  
**ORAL ORDER**

18    21-08-2018                      A supplementary affidavit is filed on behalf of the  
petitioners.

Let the same be kept on record.



Heard both sides.

By filing this writ petition, the petitioners seek direction to the respondent-authorities to provide adequate protection to the petitioners in enjoying the properties after the notification issued under Section 15 (1) of the Land Ceiling Act declaring the land of petitioners surplus has been denotified vide extra ordinary Gazette notification dated 31.08.1996.

Shri Ramakant Sharma, the learned senior counsel for the petitioner submits that in pursuance of the order of the Member, Board of Revenue the Additional Collector on the petition of Sumitra Devi passed the order and found that no land of petitioner is surplus. Accordingly, the notification issued under Section 15(1) of the Land Ceiling Act was denotified and Parcha issued in the name of private respondents were cancelled. Being aggrieved by the aforesaid order, the Parcha holders filed CWJC No. 12036 of 1996 but the same was dismissed vide order dated 24.11.1997. The Parcha holders preferred LPA No. 1545 of 1997 but the same was also dismissed. The Parcha holders filed Civil Appeal No. 26 of 2001 before the Apex Court and the Apex Court vide order dated 23.11.2007 set aside the order of Single Bench as well as Division Bench of this court with liberty to the State Government to pass fresh order if they so desire under Section 45-B of the Ceiling Act after affording opportunity to all the parties but the order of the Additional Collector denotifying the



notification issued under Section 15 (1) of the Land Ceiling Act was not set aside. Even on the petition of the petitioners filed before the Minister, the Minister did not reopen the Ceiling case under Section 45-B. The petitioners filed case before the Bihar Land Tribunal against the order of Minister but the Chairman, B.L.T. vide order dated 23.07.2014 disposed of the case holding that order of Additional Collector, in pursuance of the order passed by the Additional Member, Board of Revenue for re-opening the ceiling case remained intact and the Additional Collector has already denotified the notification earlier issued under Section 15 (1) of the Land Ceiling Act after finding that no land of petitioners is surplus. It is further submitted that even thereafter the Parcha holders are bent upon to dispossess the petitioners from the land, therefore, the petitioners filed petition before the Collector and the S.D.O. to provide security to them but the authorities did not pay any heed.

On the other hand, Mr. T.N. Matin, the learned senior counsel, and Mr. Arun Kumar Ambastha, the learned counsel, appearing on behalf of Parcha holders, respondents No. 5, 10 and 12, submit that from perusal of the order passed by the Apex Court in Civil Appeal No. 26 of 2001 it would appear that all the orders including the order of Additional Collector was set aside but from perusal of the operative portion of the order, as contained in paragraph 13, it appears that order of the Single



Bench as well as Division Bench have been set aside. The order of Additional Collector finding no surplus land of petitioners has remained intact. On query that if any ambiguity was in the order of the Apex Court the respondents should have filed petition for clarification of the order, Mr. T. N. Matin, the learned counsel for the respondents submits that no such petition was filed before the Apex Court and, therefore, the submission of Private respondents can not be accepted as the Parchas issued in favour of the respondents have already been cancelled. They did not file any petition before the Apex Court for clarification of order or for setting aside the order of the Additional Collector denotifying the notification declaring the lands of the petitioners surplus and cancellation of Parcha issued in favour of private respondents. The Apex Court gave option to reopen the ceiling case to find out whether the landlords have got any land excess to the ceiling area but competent authority, even though the petition is filed by the petitioners for reopening the ceiling case, did not choose to reopen the ceiling case to find out the question whether landlords have got land excess to the ceiling area.

The petitioners claimed that no land of theirs is surplus and the Additional Collector has rightly denotified the notification declaring 4.64 acres of land of petitioners as surplus. Petitioners have got constitutional right to protect their land and property and no land of a person can be taken away or acquired



without following the prescribed procedure of law. Administrative authority, on any petition being filed by any person raising apprehension of being illegally dispossessed, the authority is bound to take necessary action in accordance with law to protect the constitutional right of a person. When the Collector is called upon to show cause as to why the petitioners were not granted sufficient security to protect their right, the Collector submitted that a proceeding under Section 30(1) of the Ceiling Act has been initiated to decide whether the petitioners possess any land excess to the ceiling area and the proceeding is pending.

Having considered the aforesaid facts, I dispose of this writ petition with a direction to the Collector to dispose of the proceeding initiated under Section 30(1) of the Ceiling Act within three months from the date of receipt of this order and in the meantime, the petitioners shall be given proper protection or a proceeding be initiated to give sufficient protection to the petitioners.

With the aforesaid direction, this writ petition is disposed of.

**(Prabhat Kumar Jha, J)**

BKS/-

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