

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20355 of 2016

1. Vishal Kumar Singh
2. Shailesh Kumar Singh, Both sons of Late Mrityunjay Singh, Resident of Village Jehanabad, P.S. Kudra, District- Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Additional Member, Board of Revenue, Govt. of Bihar, Patna.
3. The Collector, Kaimur at Bhabua.
4. The Additional Collector, Kaimur at Bhabua.
5. Circle Officer, Kudra, Dist- Kaimur at Bhabua.
6. Ramayan Paswan, Son of Late Nauer Paswan, Resident of Village-Chilbili, P.S. Kudra, District- Kaimur (Bhabua)

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prabhakar Singh
For the Respondent/s : Mr.Sajid Salim Khan-SC-25

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 10-05-2019 In the present writ application, the petitioners seek to question the legality of the order/resolution dated 15.10.1993, passed by the learned Additional Member, Board of Revenue, Govt. of Bihar, Patna in Revision Case No. 226 of 1989, whereby the orders passed by the Collector, Kaimur in Ceiling Case No. 15 of 1989 and that of the Additional Collector (Ceiling), Kaimur in Ceiling Case No. 43/1973-74/158/1975-76 have been affirmed.

2. On perusal of the pleadings on record and



after hearing the learned counsel for the parties, since I am of the view that there has been delay and laches on part of the petitioners in approaching the Court without any justification, I need to take brief note of the chain of events, first.

3. A Land ceiling case No. 43 of 1973-74 was initiated against the land owner under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act'), treating 63.02 acres of land in his possession, consequent upon which 27.02 acres of Class-II lands was found to be surplus by the Additional Collector (Ceiling), Kaimur on 11.08.1988 in the said Ceiling Case No. 43 of 1973-74. An appeal was preferred before the appellate Court of Collector, Rohtas, which gave rise to Ceiling Appeal No.05 of 1989. The Collector modified the order of the Additional Collector (Ceiling) dated 11.08.1988 and disposed of the appeal by his order dated 09.05.1989, allowing one major unit with three additional units to the members of the family of the landholders. The order dated 09.05.1989 came to be challenged by way of revision under Section 32 of the Act, giving rise to Ceiling Revision Case



No. 226 of 1989 which came to be dismissed by an order dated 15.10.1993. Nearly thirteen years after passing of the order by the learned Additional Member, Board of Revenue dated 15.10.1993, a writ petition came to be filed before this Court by the landholders, which gave rise to CWJC No. 7407 of 2006. The writ petition was disposed of by an order of this Court dated 05.12.2013, by transferring the same to the Bihar Land Tribunal, Patna, after noticing the fact that the dispute was amenable to the jurisdiction of the Bihar Land Tribunal constituted under Section 4 of Bihar Land Tribunal Act, 2009 (hereinafter referred to as 'the Act of 2009'). Applying the provisions of Section 9 of the Act of 2009 read with Rule 5(6) of the Bihar Land Tribunal Rules, 2010, the records of writ proceeding were transferred to the Tribunal for adjudication. In the meantime, the Bihar Ceiling Act came to be amended, repealing Section 45B thereof adding Section 45D thereto, by operation of which all pending matters arising out of the ceiling proceeding before the Tribunal came to be abated. Accordingly, Tribunal disposed of matter which was transferred, as noted above, under the orders of this Court. It is in this background that the present writ application has been filed challenging the order of the



Additional Member Board of Revenue dated 15.10.1993 which was under challenge in previous writ application, i.e., CWJC No. 7407 of 2006. It is evident, thus, that an order passed by the Additional Member, Board of Revenue on 15.10.1993 was challenged after nearly thirteen years, before this Court in 2006.

4. It is noteworthy that an Interlocutory Application has been filed by one Ramayan Paswan being I.A. No. 8898 of 2018 seeking his impleadment in the writ application on the ground that after acquisition of the land in question under the provisions of Bihar Land Ceiling Act, land appertaining to Khata No. 57, Keshra No. 1050, Area . 71 Dec. has been settled in his favour with the issuance of purcha on 07.02.1989 under the joint signatures of the Sub-Divisional Officer, Bhabhua, Deputy Collector (Incharge) Land Reform, Bhabhua and the Circle Officer. He has asserted that despite issuance of purcha in his favour, he has not been handed over possession over the land settled with him. I.A. No. 8898 of 2018 is allowed and accordingly the intervener petitioner stand impleaded as Respondent No.6

5. Mr. Prabhakar Singh, learned counsel appearing on behalf of the petitioners assailing the



impugned order has submitted that the unit of one of the members of the family Chandrabhan Singh has wrongly been denied treating him to be a minor though he was major as on 09.09.1970. He contends that said Chandrabhan Singh retired on 18.01.2004 which indicates that he was a major as on that date. He has also submitted that the findings of the authorities under the land Ceiling Act to the effect that the said Chandrabhan Singh was minor as on 09.09.1970 is contrary to the report of the Circle Officer and other materials available on record.

6. It can be easily noticed from the admitted facts as noted above that, there has been delay of nearly 13 years when the order of Additional Member, Board of Revenue dated 15.10.1993 came to be challenged for the first time before this Court in 2006 and there is no explanation at all on record for such delay. The question as to whether said Chandrabhan Singh was a minor or major as on 09.09.1970 cannot be gone into at this stage, particularly, when the findings of the authorities under the Bihar Ceiling Act in the proceeding in question, are concurrent and have



attained finality.

7. Delay and latches on the part of a litigant is an important consideration for exercising writ jurisdiction under Article 226 of the Constitution of India. A belated claim without any cogent explanation should not be entertained by the Court exercising writ jurisdiction, the Supreme Court has held repeatedly. There is a series of judicial pronouncements in support of this view. Reference in this regard, may be made to the decisions in cases of **Moon Millf Limited Vs. M.R. Mehar, President in the Industrial Court, Bombay and others (AIR 1967 SC 1450), Maharashtra State Road Transport Corporation Vs. Balwant Regular Motor Service, Amrawati and others (AIR 1969 SC 329) and Karnataka Power Corporation Limited through its Chairman and Managing Director and another Vs. Thamcappan and others reported in (2006) 4 SCC 322.**

8. I do not find any merit in this application.

9. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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