

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6012 of 2017

1. Narayan Sah, Son of Mohan Sah, Resident of Village Ahwar Majharia, P.S. Bettiah Muffassil, District West Champaran.
2. Daya Shankar Sah, Son of Mohan Sah, Resident of Village Ahwar Majharia, P.S. Bettiah Muffassil, District West Champaran.
3. Shrikant Mukhiya
4. Manoj Mukhiya, Both are sons of Late Kamal Mukhiya, Resident of Village Gidhaura Baijnathpur, P.S. Muffassil, District West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna..
2. The District Magistrate, West Champaran, Bettiah.
3. The Additional Collector (Ceiling), West Champaran, Bettiah.
4. The Block Development Officer, Bettiah Block, District West Champaran.
5. Ravi Shankar Prasad Gupta, Son of Late Prem Nath Prem, Resident of Village - Baswaria, P.S.- Bettiah Muffassil, District - West Champaran.
6. Mahanth Krishna Chandra Bhagat @ Krishna Bhagat, Chela of Late Mangal Bhagat, Resident of Sekhauna Math, P.S. - Bettiah Muffassil, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Siya Ram Shahi, Advocate Ms. Shally Kumari, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C.19 Mr. B.P. Singh, A.C. to S.C.19

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 27-02-2020 Heard Mr. Siya Ram Shahi, the learned counsel appearing on behalf of the petitioners and Mr. Rishi Raj Sinha, the learned S.C.19.

The petitioner earlier being aggrieved by the order of the ceiling authority, who acquired the purchased land of the



petitioner, moved this Court in CWJC No.8919 of 2013 and this Court by order dated 17.06.2014 disposed of the writ petition with a direction to the petitioner to file a petition before the government under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act. Mahanth of Sekhauna Math sold the land in question on 3rd December, 1973 by a registered deed in favour of Prem Nath Prem. Prem Nath Prem came in possession of the land. Later on Land Ceiling Case No.13/27 of 1973/1974 was initiated against Mahanth of Sekhauna Math. 35.17 acres of land was allotted in his share and the remaining land measuring 192.56½ acres was acquired out of total land of 227.73½ acres. It is pertinent to mention here that Mahanth of Sekhauna Math did not disclose this fact during the ceiling proceeding that he had sold the disputed land in favour of Prem Nath Prem. Consequently the land sold by Mahanth of Sekhauna Math was also acquired. On such, the Court directed the petitioner to file petition before the government under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (now deleted) for reopening of the ceiling case. By amending Bihar Act 18 of 2016, Section 45B has been deleted and Sections 45C and 45D have been added providing that the cases pending before the government or the B.L.T. under Section 45B of the Act shall abate. By Section 2 of Act 18 of 2016, sub-



section (3) and sub-section (4) in Section 30 of the Act of 2016 have been added. Sub-sections (4)(i) and 4(ii) read as follows:

“(4) (i) The Collector of a district may initiate a fresh proceeding under the Act if, upon his own knowledge or information, he is satisfied that a land holder, in a proceeding under the Act, by fraudulently or by misrepresentation of facts or law, has managed to obtain an order from any of his subordinate authority with a view to defeat the objects of the Act or any provision there of and retains land in excess of the ceiling area.

(ii) The Commissioner of a division shall exercise the similar power & authority as the collector of a district where a land holder has obtained similar order from the Collector of a district falling within his Jurisdiction under similar circumstances:

Provided that before initiating such proceeding under the Act, the Collector of a district or the Commissioner of a division, as the case may be, shall issue a notice to the land holder to show cause as to why land ceiling proceeding may not be initiated on the ground mentioned in the notice:

Provided further that no such proceedings shall be initiated in the cases decided by Board of Revenue or other Higher Courts.]”

From bare perusal of sub-section 4(i) of Section 30, it appears that the power is vested in the Collector or the Commissioner that if a Collector or the Commissioner finds and is satisfied that a land holder, in a proceeding under the Act, by fraudulently and by misrepresentation of facts or law has managed to obtain an order from any office, subordinate authority with a view to defeat the objects of the Act or any provisions there of and



retains land in excess of the ceiling area, the Collector or the Commissioner may initiate a fresh proceeding under the Act.

In the present case, if the landlord sold the land on 3rd December, 1973 to one Prem Nath Prem by a registered sale deed and when the proceeding under the Ceiling Act was initiated, the landlord should have informed this fact of his execution of a sale deed in favour of Prem Nath Prem, but the landlord concealed this fact. Had the landlord disclosed this fact, the land sold by him would have been allotted in his share under Section 9(2) of the Act and to that extent the landlord gets less area of land after deducting the land already sold by him.

Considering these facts, this Court is of the opinion that after deleting Section 45B of the Act by Amending Act 18 of 2016, the power to reopen the ceiling case is vested in the Collector or the Commissioner under Section 30 (4)(i) and (ii). The petitioners cannot be left remediless.

Accordingly, I dispose of this writ petition with a direction to the petitioner to present the petition stating the facts in details before the Collector as Ceiling Case No.3/27 of 1973/1974 was disposed of by the Additional Collector and the Collector shall look into the matter and pass order in accordance with law within six months from the date of receipt of this order.

With the aforesaid direction, the writ petition stands



disposed of.

In the meantime, *status quo* with regard to the disputed land shall be maintained and the petitioners shall not be dispossessed from the land till disposal of the petition filed by them.

(Prabhat Kumar Jha, J)

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