

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7002 of 2012

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ANJANI KUMAR PRASAD SINGH Son Of Late Ragho Prasad Singh
Resident Of Village + P.O. Amauna, P.S.-Daudnagar, District-Aurangabad

... .. Petitioner/s

Versus

1. THE PRINCIPAL SECRETARY CUM COMMISSIONER, Department of Revenue and Land Reforms, Govt. of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Sub-Divisional Officer, Daudnagar, District-Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mrigank Mauli, Advocate
Mr. Vinay Mistry, Advocate
For the Respondent/s : Mr. Pawan Kumar, A.C. to A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-08-2020

Petitioner has prayed for the following relief(s):

“i) For declaring the Bihar Agriculture Land
(Conversion for Non- Agriculture Purposes) Act, 2010
(Bihar Act 11 of 2010) (hereinafter referred to as the
"Act" or "Bihar Act 11 of 2010") as ultra vires as the



same is in conflict with and is violative of Article 14 and 19(1)(g) of the Constitution of India.

ii) For holding the Act as ultra vires on account of the same being beyond the legislative competence of the State Legislature.

ii) For holding the Act as ultravires as the same overrides the provisions of Bihar Tenancy Act, 1885 and is in conflict with the scheme and provisions of the same.

iv) For issuance of writ in the nature of Certiorari quashing the undated notice issued by the respondent no.3 (as contained in Annexure 3) whereby the petitioner has been asked to apply for permission under the Act along with the requisite fee.

v) For issuance of a writ in the nature of Certiorari quashing the notice dated 10.12.11 (Annexure 5) whereby the reply dated 10.12.11 of the petitioner has been summarily rejected without giving any reason and it has been directed that the petitioner apply for conversion by 24.12.11 along with requisite fee as also the letter dated 21.02.12 (Annexure-7) whereby the claims of the regarding non-applicability of the New Act has been rejected by the Respondent State Authority.

vi) For issuance of a writ in the nature of Mandamus directing the respondent authorities that the Act has no applicability to the likes of the petitioner wherein conversions have been made prior to the commencement of the Bihar Act 21 of 1993 unless they voluntarily apply seeking permission.



vii) For issuance of such other writ(s), order(s), direction(s) as this Court may deem fit and proper.”

Shri Pawan Kumar, learned counsel for the State states that the present petition has become infructuous, inasmuch as Constitutional validity of the Statute stands upheld by this Court vide judgment dated 17.08.2019, CWJC No.2656 of 2019 titled as Lalan Singh Vs. The State of Bihar & Ors.

At this stage, Shri Mrigank Mauli, learned counsel for the petitioner states that the stand taken by the State, of the Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010 (Bihar Act 11 of 2010) having its application with retrospective effect is untenable in law. Also, infrastructure created for running the business from the premises over the land are subjected to Municipal Tax.

We are in agreement with such submission made on behalf of the petitioner on two counts; (a) the issue of retrospectivity was never raised, nor dealt with by this Court in the said decision; (b) in the given facts and circumstances, such a plea is untenable for the simple reason that since the year 1967 petitioner has been using the land for the purposes of his business. He has been operating a petrol pump over the land in



question and the Act, at that point of time, was neither conceived nor enacted. It stood notified only on 16th of April, 2010, and made enforceable only with the subsequent notification of the Rules.

In view of the aforesaid, the present petition stands disposed of.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	27.08.2020
Transmission Date	

