

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6837 of 2022

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Harshvardhan Baheti Son of Late Hiralal Baheti, Resident of -121, Sri Rameshwar Villa, Flat No.- 102, Rameshwardham Kedia Palace Chouraha Muralipur, P.S.- Muralipur, District - Jaipur, Rajasthan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reform Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Muzaffarpur.
4. The District Magistrate, East Champaran, Motihari.
5. The Additional Collector (Ceiling) East Champaran, Motihari.
6. The District Sub Registrar, District Sub Registry Office, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Sahi, Sr. Advocate Mrs. Nivedita Nirvikar, Sr. Advocate Mr. Mohit Shrivastava, Advocate Mr. Kanishk Kaustabh, Advocate Mr. Shikhar Mani, Advocate Mr. Ranjeet Kumar, Advocate
For the State	:	Mr. Vikash Kumar, Standing Counsel-11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT
Date : 18-08-2022

The present writ petition has been filed for directing the respondent authorities to register the documents presented by the petitioner for registration, details whereof has been mentioned in paragraph no. 1 of the present writ petition.

2. At the outset, the learned senior counsel for the petitioner has referred to a judgment rendered by this Court dated 26.09.2019, passed in C.W.J.C. No. 15326 of 2019 (Ramacast



Limited vs. The State of Bihar & others) to submit that the present case is squarely covered by the said judgment dated 26.09.2019. In this regard it would be apt to reproduce paragraph nos. 2 to 6 of the said judgment, rendered in the case of Ramacast Limited (supra), herein below:-

“2. The learned Senior Counsel appearing for the petitioner has referred to a judgment dated 27.10.2016 passed by the learned Division Bench of this Court in the case of the petitioner, in Civil Review No. 410 of 2016 (arising out of CWJC No. 1436 of 1986), relevant paragraphs whereof are reproduced herein below:-

“Shree Hanuman Sugar Industries Ltd., the petitioner of C.W.J.C. No. 1436 of 1986, being land-holder of land measuring about 1467 acres of different categories, filed a return after commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as “the Act” for the sake of brevity) before the ceiling authorities. Verification was carried out under Rule 8 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules, 1963 but without proper notice to the parties, therefore, by order dated 30th September, 1976 passed in CWJC No. 1312 of 1985, the ceiling authority was directed to make fresh verification in the presence of the petitioner after granting reasonable opportunity to the parties, as required under Section 9 of the Act. After verification, in terms of the direction of the High Court, the Additional Collector also conducted inquiry under Section 5 (1)(iii) of the Act regarding several sale deeds executed by



the original land holder. The proceeding also included two sale deeds executed by the land-holder in favour of this petitioner on 07.09.1970, i.e., just two days before the appointed day fixed under Section 2(a) of the Act, i.e., the 9th day of September, 1970. The land-holder was also pursuing an exemption under Section 29 of the Act on several grounds. However, the Additional Collector, on 15.01.1983, annulled several sale deeds executed by Shree Hanuman Sugar Industries Ltd., the land-holder, including the two in favour of the petitioner, under Section 5(1)(iii) of the Act.

The land-holder, being aggrieved by the order which was passed against it, refusing exemption under Section 29 of the Act, preferred C.W.J.C. No. 2976 of 1985 and several other aggrieved persons, including the petitioner, also filed their respective writ petitions against the orders passed against them. This petitioner's writ petition was C.W.J.C. No. 1436 of 1986.

All the writ petitions were tagged and heard together by a Division Bench of this Court and were disposed of by the order under review, quashing the orders passed by the Additional Collector as well as the appellate order of the Collector and, the revisional order passed by the Board of Revenue. The findings of the Additional Collector, made under Section 5(1)(iii) of the Act, regarding transfer of the land in favour of several persons, including the petitioner, and the consequential notifications under Sections 11(1) and 15 of the Act were also quashed. The Additional Collector (Ceiling) was directed to conduct a fresh inquiry under Section 5(1)(iii) of the Amended Act and, thereafter, to publish a fresh draft statement, as



required under Section 10(1) of the Act. To avoid unnecessary delay in the matter, the parties were directed to appear before the Additional Collector (Ceiling), East Champaran on or before 23rd February, 1997 so that a firm date could be fixed for inquiry and hearing etc. It was directed that until final disposal of the matter, all the parties were refrained from transferring or disposing of any land, which was declared surplus by virtue of the impugned orders.

It is the part of the aforesaid order and direction by which the parties were refrained from transferring the land till the final disposal of the matter, which is sought to be clarified by the petitioner, by filing the present review application.

Learned counsel for the State has not been able to show any provision of law under which such requirement is there though, while dealing with the issue of exemption under Section 29 of the Act, the ceiling authorities are required to make a recommendation for exemption to be granted to the applicant and, as such, recommendations are to be sent to the State Government as exemption has to be granted by the State Government under Section 29(2) of the Act. Whether, so far as the inquiry and decision under Section 5(1)(iii) of the Act are concerned, the final authority is the Collector under the Act? If the Collector chooses not to annul the transfer, the State Government cannot take a decision otherwise. It can only move in appeal against the order.

Thus, in view of the aforesaid discussion and also the admitted fact that about sixteen other similarly situated persons have been allowed registration, it is held that the pendency of ceiling proceeding against the land-holder



would not be an impediment in registering the land transferred by the petitioner as he cannot be allowed to wait till eternity. However, at the same time, it is also held that, even such registration is made, the State Government would be at liberty to assail such order passed by the Additional Collector (Ceiling) before the competent authority and take other remedial steps if it finally succeeds.

Accordingly, this review application is disposed of with the aforesaid observation and liberty to the State and clarification of the order dated 29.01.1997 passed by the Division Bench of this Court in C.W.J.C. No. 1436 of 1986 and other analogous matters”.

3. The learned Senior counsel appearing for the petitioner has further submitted that the aforesaid judgment dated 27.10.2016 was assailed by the respondent State by filing a Special Leave Petition (C) No. 4160 of 2017, which has stood dismissed by an order dated 23.02.2017 by the Hon'ble Supreme Court. In fact, the review petition filed against the order dated 23.02.2017 passed in the said SLP has also stood dismissed by an order dated 31.10.2017.

4. The learned Senior counsel for the petitioner has further referred to orders dated 15.02.2018 and the one dated 21.02.2018 passed in M.J.C. No. 1053 of 2017 to show that 21 documents, which were presented by the petitioner before the In-charge District Sub-Registrar, Motihari, have also been registered.

5. Per contra, the learned counsel for the State has not been able to show that there is any distinguishing



reature in the present case vis-a-vis the case wherein the learned Division Bench has passed the judgment dated 27.10.2016 i.e. in Civil Review No. 410 of 2016, however, the learned counsel for the State submits that liberty be granted to the respondent State to take appropriate steps in accordance with law for cancellation of the registration, sought to be made in favour of the purchaser of the land of the petitioner herein, in case the Additional Collector(Ceiling) comes to a finding, by passing a final order under the Ceiling Act, that the land in question is surplus land of the original vendor i.e. M/S Shree Hanuman Sugar & Industries Ltd.

6. Having regard to the facts and circumstances of the case and the submissions made by the learned counsel for the parties, this Court is of the view that no different view can be taken other than the view taken by the learned Division Bench of this Court in its judgment dated 27.10.2016, passed in Civil Review No. 410 of 2016. Hence, it is directed that the pendency of the ceiling proceeding against the original landholder shall not be an impediment in registering the land being transferred by the petitioner herein (five sale deeds in question), since it cannot be allowed to wait till passing of the final order under Ceiling Act. However, considering the submissions made by the learned counsel for the State, it is further held that even if the aforesaid registration is made, the State will at liberty to assail such order passed by the Additional Collector (Ceiling), in the ongoing ceiling



proceeding, before the competent authority and take other remedial steps in case the State Government finally succeeds.”

3. Per contra, the learned counsel for the respondent-State Shri Vikash Kumar, Standing Counsel-11 has submitted that the land holder i.e. Shree Hanuman Sugar Industries Limited has challenged the fresh proceedings initiated under Section 30(4)(i) of the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land), Act, 1961 by filing a writ petition bearing C.W.J.C. No. 13941 of 2017, in which a coordinate Bench of this Court has stayed the said notice dated 19.07.2017 and unfortunately the said case is not being now heard and the said Shree Hanuman Sugar Industries Limited is trying to set up various persons to file cases and present sale deed for registration.

4. Nonetheless, the learned counsel for the respondent-State has not been able to controvert that a learned Division Bench of this Court by a judgment dated 27.10.2016 passed in Civil Review No.410 of 2016, has been pleased to hold that pendency of ceiling proceedings against the land holder cannot be an impediment in registering the land transferred by the land holder as he cannot be allowed to wait till eternity. It is also not disputed that the said judgment dated 27.10.2016 has been



upheld by the Hon’ble Apex Court inasmuch as the Special Leave Petition bearing S.L.P. (C) No. 4160 of 2017, filed by the respondent-State has stood dismissed by an order dated 23.10.2017.

5. Having regard to the facts and circumstances of the case, this Court finds that the present case is not only squarely covered by the judgment dated 27.10.2016 passed by a learned Division Bench of this Court in Civil Review No. 410 of 2016 but also by a judgment dated 26.09.2019 passed in C.W.J.C. No. 15326 of 2019, hence the present writ petition stands allowed in terms of the aforesaid judgment dated 27.10.2016 passed in Civil Review No. 410 of 2016 as also in terms of the judgment dated 26.09.2019 passed in C.W.J.C. No. 15326 of 2019.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	N/A
CAV DATE	11.08.2022
Uploading Date	24.08.2022
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