

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19502 of 2015

1. The State of Bihar.
2. The District Magistrate, Khagaria.
3. The Additional Collector, Khagaria.
4. The S.D.O., Gogri, Khagaria.
5. The L.R.D.C., Gogri, Khagaria.
6. The Circle Officer, Parbatta, Khagaria.

... .. Petitioners

Versus

1. Rakesh Narayan Singh Son of Late Kamaldeo Narayan Singh, Presently residing at 410, Paney Mall Complex Vishal Mega Mart, Fraser Road, Patna- 1.
- 2.1. Smt. Punia Devi W/o Late Nemo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 2.2. Shri Shekar Das Son of Late Nemo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 2.3. Sri Awadesh Das Son of Late Nemo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
3. Bhart Das or Bhothri Das son of Langru Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 4.1. Shri Shaligram Das Son of Narayan Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 4.2. Shri Ravindra Das Son of Narayan Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 5.1. Shri Dasrath Das Son of Late Hirdi Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 5.2. Shri Sikander Das Son of Late Hirdi Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
6. Saudagar Das son of Rameshwar Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
7. Ram Vilas Paswan son of Vishnu Deo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 8.1. Mostt. Manorama Devi Wife of Late Bishun Deo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
- 8.2. Shri Sunil Das Son of Late Bishun Deo Das Resident of village- Jayanti Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
9. Vasu Das son of Late Gultu Das Resident of village- Jayanti Gram Udaipur,



P.O. and P.S.- Parbatta, District- Khagaria.

10. Shri Dayanand Das Son of Late Munmun Das Resident of village- Jayanti
1. Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
10. Shri Vedanand Das Son of Late Munmun Das Resident of village- Jayanti
2. Gram Udaipur, P.O. and P.S.- Parbatta, District- Khagaria.
11. Laxmi Das son of Ramdeo Das Resident of village- Jayanti Gram Udaipur,
P.O. and P.S.- Parbatta, District- Khagaria.
12. Ramdeo Das son of Mishri Das Resident of village- Jayanti Gram Udaipur,
P.O. and P.S.- Parbatta, District- Khagaria.
13. Daso Paswan son of Not known Resident of village- Jayanti Gram Udaipur,
P.O. and P.S.- Parbatta, District- Khagaria.
14. Fuchu Das son of Bhothri Das Resident of village- Jayanti Gram Udaipur,
P.O. and P.S.- Parbatta, District- Khagaria.
15. Manoj Thakur son of Late Swatantra Thakur Resident of village- Lagar, P.O.
and P.S.- Parbatta, District- Khagaria.
16. Ranjan Thakur son of Late Swatantra Thakur Resident of village- Lagar,
P.O. and P.S.- Parbatta, District- Khagaria.
17. Rajkishore Thakur son of not known Resident of village- Lagar, P.O. and
P.S.- Parbatta, District- Khagaria.
18. Yoga Thakur son of not known Resident of village- Lagar, P.O. and P.S.-
Parbatta, District- Khagaria.
19. Most. Urvi Devi W/o Late Ambika Thakur Resident of village- Lagar, P.O.
1. and P.S.- Parbatta, District- Khagaria.
19. Shyam Sundar Thakur S/o Late Ambika Thakur Resident of village- Lagar,
2. P.O. and P.S.- Parbatta, District- Khagaria.
19. Mithlesh Thakur S/o Late Ambika Thakur Resident of village- Lagar, P.O.
3. and P.S.- Parbatta, District- Khagaria.
20. Shankar Thakur son of Bhumi Thakur Resident of village- Lagar, P.O. and
P.S.- Parbatta, District- Khagaria.
21. Bal Krishna Thakur son of Bhumi Thakur Resident of village- Lagar, P.O.
and P.S.- Parbatta, District- Khagaria.
22. Umda Thakur wife of Anandi Thakur Resident of village- Lagar, P.O. and
P.S.- Parbatta, District- Khagaria.
23. Sharda Devi wife of Basudeo Thakur Resident of village- Lagar, P.O. and
P.S.- Parbatta, District- Khagaria.
24. Kaushalya Devi wife of Late Adhiklal Thakur Resident of village- Lagar,
P.O. and P.S.- Parbatta, District- Khagaria.
25. Naresh Thakur son of not known Resident of village- Lagar, P.O. and P.S.-
Parbatta, District- Khagaria.
26. Arvind Thakur son of not known Resident of village- Lagar, P.O. and P.S.-
Parbatta, District- Khagaria.



27. Bilash Das son of Satto Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
28. Awadhesh Das son of Satto Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
29. Shyam Sundar Das son of Late Chhotan Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
30. Dinesh Das son of Late Chhotan Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
31. Shankar Das son of Late Bishun Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
32. Nakul Das son of Faujdari Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
33. Niraj Das son of Hari Shankar Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.
34. Narayan Das son of Late Battan Das Resident of village- Harijan Tola, P.O.- Naya Gaon, P.S.- Parbatta, District- Khagaria.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Alok Kumar Rahi
For the Respondents	:	Mr. Sarvesh Kumar Singh, AAG-13
For Respondent No.1	:	Mr. Rakesh Narayna Singh, in person

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 07-11-2022

Heard learned counsel for the parties.

2. By way of this writ petition, the petitioners are seeking for quashing of order dated 25.08.2014 passed by the Bihar Land Tribunal, Patna, in B.L.T. Case No. 175 of 2014, whereby and whereunder the Tribunal has allowed the said B.L.T. case filed by respondent no.1 and quashed the Gazette Notification dated 30.11.1976 published under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act in connection with Ceiling



Case No. 132 of 1974-75 renumbered as Ceiling Case No. 23 of 1984-85.

3. The brief facts of this case are that a Ceiling Case No. 132 of 1974-75 had been initiated against the father of respondent no.1, in which the proceeding continued upto the stage of Section 10 and draft publication was made. Objections were filed by the land-holder under Section 10(2) of the Act. The matter traveled upto the Member, Board of Revenue. The Additional Member, Board of Revenue remanded the matter to the Sub Divisional Officer, who is Collector under the Act, for reconsideration of the issue relating to unit for which the land-holder is entitled to. However, in the meantime, Amending Act, 1981 was passed and the entire proceeding abated under Section 32(A) of the Act on the ground that till that date there had not been publication of Gazette Notification under Section 11(1) of the Act.

4. The Amending Act, 1981 was very specific that only those ceiling proceedings will abate where Notification under Section 11(1) of the Act has not been published. After abatement, the ceiling proceeding was re-initiated from the stage of Section 10(1) of the Act and the Ceiling Case was renumbered as Ceiling Case No. 23/1984-85. Thereafter, fresh



draft publication was made under Section 10(1) of the Act. Objections were invited and the respondent no.1 filed his objection under Section 10(2) of the Act. Appeals were preferred against the order passed under Section 10(3) of the Act by the heirs of original land-holder because the ancestor of respondent no.1 namely, Ramlal Singh, had two wives and there was Title Suit Nos. 25 of 41/49 of 1951 with regard to partition of family property and on the basis of the judgment and decree passed in Title Suit, co-sharers were allotted their specific share and all of them were in possession of land.

5. When the ceiling proceeding was still going on, the land of respondent no.1 was distributed to the landless persons and *Purchas* were also issued. Thereafter, the settlers/red card holders started disturbing the possession of respondent no.1, hence, the father of respondent no.1 filed C.W.J.C. No. 379 of 2012 before this Court. This Court vide order dated 09.07.2012 disposed of the said writ petition with the following directions:-

“8. As the counter affidavit is silent on the most relevant aspect of the matter as to what happened to the order of the Magistrate putting the lands in question in possession of petitioner no.2, I direct the District Magistrate, Khagaria to transfer the proceeding in question to his file



and to deal with the same by calling upon the private respondents and others who are claiming the lands in question on the basis of purcha to produce the purcha and if such purcha is not produced or the purcha produced is not genuine then to ensure conclusion of the proceeding as early as possible, in any case within reasonable time not exceeding one month from the date of receipt/production of a copy of this order before the District Magistrate, Khagaria by first directing private respondents and others to produce the purcha so as to enable the District Magistrate to verify the genuineness of the purcha. In case, the purcha produced is not found genuine the District Magistrate shall ensure possession of substituted petitioner no.1 over the lands in question is maintained and not disturbed by the private respondents and other unauthorized claimants. In this connection, the District Magistrate may also initiate proceeding under Section 107 Cr.P.C. against private respondents and others and also inform the State Government in the Revenue Department that private respondents and others without any iota of title over lands in question are trying to create law and order situation just to disturb the lawful possession of the substituted petitioner no.1 and after giving such information use adequate force for ensuring rightful possession of the substituted petitioner no.1 over the lands in question.”



6. Since the aforesaid directions of this Court were not complied/executed, the respondent no.1 filed a contempt petition being M.J.C. No. 5549 of 2012 before this Court. In the contempt proceeding, the Collector and other authorities were directed to file their show-cause. The opposite parties produced a Gazette Notification dated 30.11.1976 published under Section 15(1) of the Act and also stated regarding distribution of the land of the respondent no.1 without its being declared as Surplus land in the ceiling proceeding. In the contempt proceeding, this Court vide order dated 10.07.2013 granted liberty to the respondent no.1 to challenge the Notification dated 30.11.1976. Accordingly, the respondent no.1 challenged the Notification dated 30.11.1976 before the Bihar Land Tribunal by way of filing B.L.T. Case No. 175 of 2014. The Tribunal vide order dated 25.08.2014 allowed the said B.L.T. case and quashed the Gazette Notification dated 30.11.1976 published under Section 15(1) of the Act and given liberty to the respondent no.1 to file an application before the Collector for restoration of his possession over the land which has illegally been distributed amongst the landless persons during the pendency of the ceiling case. Being aggrieved with the order of the Tribunal, the State has filed this writ petition.



7. Learned counsel for the petitioner-State submits that the impugned order dated 25.08.2014 passed by the Bihar Land Tribunal, Patna is wholly without jurisdiction and contrary to the scheme of Section 9 of the Bihar Land Tribunal Act. According to him, the Bihar Land Tribunal is empowered to entertain any application against final order passed by the appropriate/competent authority within 90 days from the date of passing of such order and as such, the Tribunal had no power to quash the Notification dated 30.11.1976 issued under Section 15(1) of the Ceiling Act after such a long delay. He further submits that the Tribunal has passed the impugned order without appreciating the materials available on record.

8. It has been submitted by learned counsel for the petitioner-State that when the ancestors of respondent no.1 had given in writing that they had voluntarily surrendered their land in favour of the State for distributing the same amongst the poor persons now, the respondent no.1 cannot claim for return the said land. It has also been submitted that the respondent no.1 or land-owner never raised any objection regarding issuance of Notification dated 30.11.1976 issued under Section 15(1) of the Act before any authority but after lapse of about 38 years, the respondent no.1 questioned same before the Tribunal and the



Tribunal without appreciating this fact has passed the impugned order.

9. Learned counsel for the respondent no.1 submits that the Tribunal after appreciating all the materials available on record has passed the impugned order and quashed the Notification dated 30.11.1976 and directed the Collector, Khagaria to restore the possession of the petitioner over the land in question which has illegally been distributed amongst the landless persons during the pendency of the ceiling case. He further submits that the petitioners are trying to justify their illegality by which they have illegally distributed the land of respondent no.1 without declaration of surplus land. He also submits that ceiling case was finalized on 17.07.2008 in which no land of respondent no.1 was declared surplus but the respondents 2nd set obtained forged *purchas* for the aforesaid land and forcibly occupied the said land.

10. It has been submitted that when the respondent 2nd set started cutting soil from the land of respondent no.1, the petitioner moved before the S.D.O. Gogri, upon which, proceeding under Section 144 of the Cr.P.C. was initiated and later on, the same was converted under Section 145 of the Cr.P.C. and in the said proceeding the S.D.O. Gogri, had called



for a report from Parbatta Police Station, which was submitted on 26.07.2010 intimating that respondent 2nd set are trying to grab the land of the respondent no.1 by taking law in their hands. It has also been submitted that the petitioner-State has not produced any chit of paper before the Tribunal or this Court which would indicate that the father of respondent no.1 had voluntarily surrendered the land in favour of the State for distributing amongst poor persons.

11. Considered the submissions of the parties.

12. It would be relevant to quote paragraph nos. 3 and 4 of the impugned order passed by the Bihar Land Tribunal, which read as under:-

“3. The State had been directed to file counter affidavit, which has not been filed till date. The connected records of ceiling case no. 132/74-75 renumbered as Ceiling Case No.23/84-85 were called for, in order to find out that how and when the gazette notification under section 15(1) of the Act had been published in connection with the present case. On perusal of the entire record I find that there has not been any order whereby direction has been issued for publication of gazette under section 11(1) of the Act. There is no gazette notification published under section 11 of the Act. There is no order directing for publication of gazette under section 15(1) of the Act passed in the year 1976.



Admittedly the ceiling case was at the stage of section 10 of the Act when the amending Act, 1981 came into force. Since till that date there had not been any notification under section 11(1) of the Act, the ceiling case in question was abated under section 32(A) of the Ceiling Act. This in itself is sufficient to show that in the year 1981 there was no gazette notification under section 11(1) of the Act and as such, question does not arise for publication of notification under section 15(1) of the Act in the District Gazettee. Gazettee notification, which had been brought by the authorities during the pendency of the contempt proceeding along with their show-cause was nothing but an illegal act on their part. The collector and other authorities have got the notification under Section 15(1) of the Act published in the District Gazettee in order to justify the illegal distribution of petitioner's land as ceiling surplus, during the pendency of the ceiling case.

4. I find that it is a fit case, in which gazettee notification be quashed as till now there is no notification under Section 11 (1) or 15(1) of the Act in case No.132/74-75 renumbered as Ceiling Case No.23/84-85. Accordingly gazettee notification dated 30.11.1976 (Annexure-12) is quashed."

13. It appears that the lands of the respondent no.1 were subject matter of Ceiling Case No. 132 of 1974-75



renumbered as Ceiling Case No. 23 of 1984-85 which was finally concluded on 17.07.2008 but not even an inch of land of the respondent no.1 was declared surplus. The petitioner-State has annexed the order-sheet dated 01.06.1976 to show that draft statement under Section 11 of the Act was served upon the landholder and order-sheet dated 15.07.1976 to show that Notification under Section 15(1) was issued on 16.06.1976 but the petitioner-State did not whisper about the Notification dated 30.11.1976 which was brought on record before this Court in contempt proceeding. Further, the Notification dated 16.06.1976 has been challenged by respondent no.1 before the several authorities till culmination of the Ceiling Case No.132 of 1974-75 renumbered as Ceiling Case No. 23 of 1984-85 which was finally concluded on 17.07.2008 in which no land of respondent no.1 was found surplus. Though it has been contended by the petitioner-State that the ancestors of respondent no.1 had given in writing that they had voluntarily surrendered their land in favour of the State for distributing amongst the poor persons but no material / evidence has been brought on record in support of the contention of the petitioner-State. The respondent no.1 also demanded the record in this regard from the Circle Officer, Parbatta but in reply, the Circle Officer, stated that no record in



this regard was available in his office. The basic rule of Bihar Land Ceiling Act is that no land of person can be distributed to the landless persons without declaring it as surplus land or without finalizing the ceiling case.

14. In view of the discussions made above, I am of the considered view that there is no illegality or infirmity in the impugned order of the Bihar Land Tribunal. Accordingly, this writ petition stands dismissed.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.12.2022
Transmission Date	N/A

