

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1235 of 2019

In
Civil Writ Jurisdiction Case No.14308 of 2019

-
1. Manjur Alam alias Sheikh Manzur Alam Son of Late Sk. Zahiruddin @ Zahiruddin, Resident of Village-Kursel, Post Office-Jhaua, Police Station-Kadwa, District-Katihar.
 2. Sheikh Faiqur Rahman Son of Late Sk. Zahiruddin @ Zahiruddin Resident of Village-Kursel, Post Office-Jhaua, Police Station-Kadwa, District-Katihar.

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Deputy Secretary, Revenue and Land Reforms Department , Government of Bihar, Patna-800001.
3. The Collector, Katihar.
4. The Sub-Divisional Officer, Katihar..
5. The Deputy Collector, Land Reforms, Katihar.
6. The Circle Officer, Kadwa, District-Katihar.
7. Karshu Rai Son of Late Phagu Rai Resident of Village-Kursail, POst office-Jhaua, POlice Station-Kadwa, District-Katiahr.
8. Singhu Rai Son of Late Phagu Rai Resident of Village-Kursail, POst office-Jhaua, POlice Station-Kadwa, District-Katiahr.
9. Rajnu Rai Resident of Village-Kursail, POst office-Jhaua, POlice Station-Kadwa, District-Katiahr.
10. Gorau Chaudhary Son of Gaya Chaudhary Resident of Village-Kursail, POst office-Jhaua, POlice Station-Kadwa, District-Katiahr.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Najmul Hoda
For the Respondent/s : Mr.Suresh Prasad Sah @ Baranwal

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

5 10-05-2022 Heard the learned counsel for the parties.

The challenge to the order in the present appeal has



been passed in C.W.J.C. No. 14308 of 2019, whereby the learned Single Judge has rejected the prayer of the appellants herein for quashing the Gazette notification no. S.O. 2868 dated 01.10.1976 issued by the Revenue & Land Reforms Department, under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, declaring certain lands to be surplus.

The case of the appellants is that against the original land holder, namely, Harihar Prasad Das, a Land Ceiling case was initiated vide Case No. 492 of 1966-67 in which, it was held that there was no surplus land with him.

Before such an order could be passed in the land ceiling case referred to above, aforesaid Harihar Prasad Das had died. However, prior to his death, he has gifted the land in question to his wife, namely, Jiwchi Devi as his son was differently abled.

Aforesaid Jiwchi Devi is said to have sold the land in question by a sale deed dated 27.06.1974 to the appellants. The land admeasures 2.27 acres and is carved out from plot nos. 169 and 170, appertaining to Khata No. 163.

It further appears from the records that pursuant to a Gazette notification dated 01.10.1976, the lands belonging to



Harihar Prasad Das was found to be surplus which actually is the land which appears to have been sold to the appellants.

The case of the appellants before the learned Single Judge was that they had no idea about the Gazette notification and they had purchased the land only on coming to know of the fact that the DCLR had decided about Harihar Prasad Das not having surplus land, in the proceedings initiated in that regard way back in the year 1972. Thus, it was highly inappropriate for the Government to have issued the notification holding the land which already is in possession of the appellants to be surplus land of the family of Harihar Prasad Das.

The learned Single Judge was of the view that raking up this issue after 43 years of Gazette notification was meaningless.

We fully endorse the view of learned Single Judge that such issue could not have been raised at such a belated stage without there being any explanation whatsoever for such delay. The reasons assigned by the appellants, namely, their lack of knowledge about the proceeding in the year 1976 holding the land to be surplus, is not at all satisfactory as it is not supported by any cogent oral or documentary evidence. Apart from this, we also find that the land in question, namely, the land which



was found to be surplus has already been settled with the private respondents.

Thus, finding no fault with the order of the learned Single Judge, we dismiss this appeal but without costs.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

sunilkumar/-

U			
---	--	--	--

