

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5170 of 2012

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1. Subhash Mehta @ Subhash Mahto, Son of Late Munshi Mehta, Resident of Village Bhotia, P.S. Dhamdaha, District- Purnea
 2. Nand Lal Mehta, Son of Late Munshi Mehta, Resident of Village Bhotia, P.S. Dhamdaha, District- Purnea
 3. Udit Narayan Mehta, Son of Awadh Mehta, Resident of Village Bhotia, P.S. Dhamdaha, District- Purnea
 4. Meera Devi, Daughter of Late Ram Mehta, Resident of Village Bhotia, P.S. Dhamdaha, District-Purnea

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnia
3. The Executive Magistrate, Purnia
4. The D.C.L.R. , Dhamdaha, District- Purnia
5. Tej Narayan Uraon, Son of Late Ganga Lal Uraon, Resident of Bhotia, P.O. Damgara, P.S. Dhamdaha, District- Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Asha Verma, Advocate Mrs. Kumari Chandani, Advocate
For the Respondent/s	:	None

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 11-04-2023 Heard learned counsel for the petitioners. No one appears either on behalf of the State-respondents or on behalf of respondent no.5.

The petitioners have filed the instant application for the following relief(s) :-

“1. That this is an application for issuance of a writ, order or direction commanding the respondents not to interfere with the right, title and peaceful possession of the petitioners over the



land described in Para 6 of this application and not to disturb them in any manner, in that regard because the same has been protected by this Hon'ble Court, as the order of acquisition of those lands by declaring them to be surplus in a Ceiling Proceeding No. 687 of 1973-74, initiated against Ex-landlord, vide order dated 26.02.86 as contained in Annexure: 2 passed by the respondents no. 3 and order dated 08.07.86 as contained in Annexure: 3 passed by the respondent no. 2 in Ceiling Appeal No. 48/1986, in regard to Ram Mehta, father of petitioner no. 4 and in Ceiling Appeal No. 49/1986 in regard to the petitioners no. 1 to 3, all have been quashed by this Hon'ble Court vide its order dated 06.09.1989 passed in C.W.J.C.No. 49676/86 (Ram Mehta Vrs. The State of Bihar and Others) and in C.W.J.C.No. 4969/1989 (Subhash Mehta & Others Vs. the State of Bihar & Others) and the writ application was allowed by a Division Bench comprising with Hon'ble Mr. Justice S. K. Jha and Hon'ble Mr. Justice S.H.S. Abidi, as contained in Annexure: 1 & 1/A respectively of this writ application.

However, the liberty was granted to the respondents, if so advised, they may make an enquiry under section 5 of the Act after due notice to the petitioner and dispose of the matter in accordance with law, but even after a lapse of twenty three years, no notice has been given to the petitioner and the matter has not been reopened and taken up under section 5 of the Act, thus the respondents accepted the right, title, possession of the petitioner absolute by accepting the relevant sale



deed to be a valid one.

AND

Further for quashing of a notice dated 02.09.2011 has illegally been issued to the petitioner no. 1 from the court of the D.C.L.R., Dhamdaha (the Respondent No. 4) in Land Dispute Case No. 29/11-12 against the petitioner no. 1 in regard to the lands situated in Mauza: Bhotia, P.S No. 94, Khata No. 10, Plot No. 796, area 1.05 acres in which the lands of Plot No. 796 of petitioner no. 2 and 3 measuring an area of 0.47 decimals are also included, in utter violation of Annexure: 1 & 1/A, which was the subject matter of the writ application C.W.J.C.No. 4967/89 and C.W.J.C.No. 4969/89 and can only be decided under strict obedience of Annexure: 1 & 1/A.

And/ or / in alternate

Further for issuance of a direction to the respondents, not to compel the petitioners in any manner to leave the possession, by creating a threat of initiating a proceeding under section 107 Cr.P.C. or any other illegal proceeding against the petitioners in regard to the land described in para 6 of this petition, till compliance of annexure 1 and 1A

AND

Further for issuance of a direction to cancel the Parcha if any the respondents have issued to anyone in utter violation of the order of this Hon'ble Court as contained in Annexure: 1 & 1/A, as the orders contained in Annexure: 2 and 3 stood quashed."



It is submitted by learned counsel for the petitioners that the earlier application of these petitioners was decided by order dated 6.9.1989 passed by this Court in CWJC no.4969 of 1989. From perusal of the said order it would transpire that this Court had stated that if the competent authority is so advised, they may make an enquiry under section 5 of the Act after due notice to the petitioners and dispose of the matter in accordance with law. It is the categorical case of the petitioners that no notice whatsoever has been received by the petitioners with respect to any enquiry under section 5 of the Act and not having done so, in view of the said order, the respondent authorities could not have proceeded against the petitioners in the matter. It is finally submitted that the action of the respondent authorities would amount to contempt of the direction of this Court as contained in order dated 6.9.1989.

Having heard learned counsel for the petitioners and having perused the affidavits on record it transpires that the petitioners have prayed for quashing of the notice dated 2.9.2011 issued by the D.C.L.R, Dhamdaha, District- Purnia (respondent no.4) in Land Dispute Case no.29/11-12.

It further transpires that counter affidavit has been filed on behalf of respondent nos.1 to 4 sworn by the D.C.L.R,



Dhamdaha. From perusal of the said counter affidavit it transpires that so far as the Land Dispute Case no.29/11-12 is concerned, the same was disposed of vide order dated 26.9.2012 by the D.C.L.R, Dhamdaha and the order has been brought on record as Annexure-A.

In view of the facts stated herein above, the Land Dispute Case no.29/11-12, the issuance of notice of which has been challenged in the instant writ application, the case itself having been disposed of by the D.C.L.R, Dhamdaha, in the opinion of the Court, nothing remains in the instant writ application.

In case the petitioners feel aggrieved by the said order, the petitioners will be at liberty to challenge the same in accordance with law.

This application stands disposed of.

(Partha Sarthy, J)

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