

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12150 of 2017

-
-
1. Arvind Kumar Choudhary
 2. Ashok Kumar Choudhary, Both sons of Late Bhagwat Choudhary, Both resident of Village- Hulas, Tola Bichari, P.O.- Hulas, P.S.- Raghapur, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Secretary, Land Revenue , Land Revenue Deptt., Govt. of Bihar, Patna.
3. The Collector, Supaul at Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uma Shankar Singh, Advocate
For the Respondent/s : Mr. Manoj Kumar Sinha, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 15-04-2024 Heard the parties.

2. The petitioners have prayed for the following
reliefs:

*(i) for issuance of an appropriate writ
to quash the notification dated 23.12.1988
contained in Annexure-II declaring surplus
lands of Tek Narain Choudhary in which
petitioner's lands have been included;*

*(ii) for the declaration that the order
of settlement and issuance of parchas if any with
respect to the land of petitioner's is void illegal
and inoperative;*

*(iii) for the issuance of an appropriate
direction or order commanding/directing the*



Respondent to allow the petitioners an option to retain their lands to which they are legally entitled.

(iv) for the issuance of an interim orders directing respondents not to interfere in peaceful possession of the petitioner's lands to which they are legally entitled to retain.

(v) for any other order or direction to which the petitioners is entitled or is essential for the ends of Justice.

3. A perusal of the writ petition would show that the petitioner had earlier moved before the Minister, Revenue Land Reforms Ministry, Government of Bihar, Patna in Revenue Miscellaneous 2/95/96 (Bhagwat Choudhary, father of the petitioners herein & Ors Vs. the State of Bihar & Ors).

4. The said matter was taken up by the Minister and taking into the account fact that from 21.4.1998, the appellants after repeatedly absented themselves, on 28.7.1998, the case was dismissed for non-prosecution (Annexure-5 to the writ petition).

5. Subsequently, the petitioners as also their father, Bhagwat Choudhary moved this Court in writ petition and



the writ Court taking having note of the conduct of the petitioners in the proceeding before the Minister dismissed the same on 7.8.2009 (Annexure-7 to the writ petition).

6. Aggrieved, LPA No. 1499/2009 was preferred by the petitioners as also their father herein. It was taken up on 29.4.2010 and the Appellate Court was kind enough to restore the Revenue Miscellaneous Case No. 2/95/96 to its original file directing the competent authority to dispose of the matter within a period of four months (Annexure-8 to the writ petition).

7. Six years later, vide a gazette notification dated 2.9.2016, the State Government brought a new section 45D after section 45C of the Bihar Land Reforms (Fixation of ceiling and Acquisition of Surplus Land) (Amendment) Act, 2016 and Clause 4 and 5 read as follows:

"4. Repeal of section 45B of the Act, 1961. -Section -45B of the said Act, 1961 is here by repealed.

5. Addition of a new section -45D after section-45C of the Act, 1961.-After section-45C a



new section-45D shall be added:

"45D.-After repeal of section-45B of this Act, proceedings pending before the State Government or the Bihar Land Tribunal shall be deemed to be abated and the proceeding reopened earlier under deleted section -45 B and pending before the collector shall also stand abated.

By order of the Governor of Bihar,

SANJAY KUMAR

Secretary to Government.

8. In 2017, the writ petition was filed. After its dismissal, an appeal was filed and the Appellate Court restored the case before the concerned Minister to its original file. This happened in the year 2010. There is nothing on record to show that pursuant to the restoration of the Revenue Miscellaneous Case No. 2/95/96, the petitioners ever



approached the concerned Minister inasmuch as neither the plaint showing the same is on record nor the order-sheet showing entertainment of the case as there was specific direction of the Appellate Court to dispose of the matter within a period of four months.

9. The notification as would manifest came six years later in the year 2016. In the said background, when there is/are no document/annexure relating to filing of the plaint and/or order-sheet showing any progress made thereafter, it will be presumed that the petitioners/father chose to sat over the matter and never approached the Minister. A bald statement made in paras-17 and 18 that the petitioners had moved before the Minister on 9.7.2010 but till 1.8.2016, no order was passed is definitely an after thought and fit to be rejected in the absence of any supportive document.

10. The writ Court earlier had chosen to reject the claim of the petitioners in the year 2009 but due to Appellate Court's order, he got a chance which he failed to avail and in absence of plaint/filing of any petition pursuant to the Appellant Court's order as also the order-sheet relating to the case after disposal of LPA N. 1499 of 2009 is/are fatal



in the present case and thus no relief can be extended to them. The case is thus fit to be dismissed with cost due to non availability of material facts/Annexures.

11. The same is accordingly dismissed with cost of Rs. 1000/- to be paid to the Patna High Court Legal Services Committee within a period of four weeks from today.

(Rajiv Roy, J)

Ravi/-

U			
---	--	--	--

