

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8838 of 2018**

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1. Radhe Lal Yadav, Son of Late Satan Yadav.
2. Raghunandan Yadav, Son of Late Jagdish Yadav, Both are residents of Village- Ram Nagar Farsahi Tola- Maharaji, Police Station- Jankinagar, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Purnia.
3. Tapendra Prasad Mandal, Son of Late Bhubneshwari Mandal, Resident of Village- Brahmgyani, Police Station- Bhawanipur, District- Purnia.
4. Budhan Rishideo, Son of Rameshwar Rishideo,
5. Mohan Paswan, Son of Beni Paswan, No.4 and 5 are resident of Village- Hatia Tola, Janki Nagar, Police Station- Janki Nagar, District- Purnia.
6. Badri Rishideo, Son of Mahabir Rishideo, Resident of Village Khunt Tola- Janki Nagar, Police Station Janki Nagar, District- Purnia.
7. Nathan Paswan, Son of Ayodhi Paswan, Resident of Maharaj Tola- Janki Nagar, Police Station- Janki Nagar, District- Purnia.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ravindra Kumar Choudhary, Advocate<br>Mr. Rama Nand Poddar, Advocate |
| For the Respondent/s | : | Mr. Dhurjati Kumar Prasad, GP-14                                         |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**

**Date : 26-09-2024**

Heard Mr. Ravindra Kumar Choudhary, learned counsel for the petitioners and Mr. Dhurjati Kumar Prasad, learned counsel for the State.

2. The petitioners are aggrieved by the order dated 09.02.2018 passed by respondent no.2, the Collector, Purnia in Miscellaneous Ceiling Case No. 153 of 1991, by which proceedings of the afore-noted miscellaneous ceiling case was closed, in view of promulgation of the Bihar Land Reforms



(Fixation of Ceiling Area and Acquisition of Surplus Land) Amendment Act, 2016, (for short “the Land Ceiling (Amendment) Act, 2016”) whereby Section 45(B) of the Bihar Land Ceiling Act (for brevity ‘the Ceiling Act’) was repealed and the pending proceeding under Section 45(B) of the Ceiling Act stands abated in view of newly added Section 45(D) of the Ceiling Act. The petitioners also sought quashing of Notification No. 2873 dated 11.02.1991, which was published in Issue no. 67 dated 16.02.1991 (Annexure-6).

3. Learned counsel for the petitioners contended that the land in question previously belonged to one Bisheshwar Mathto, who acquired the lands through settlement from ex-landlord but during revisional survey operation, the same was wrongly recorded in the name of one Tapendra Mandal. In the aforesaid premise, Bisheshwar Mahto filed Title Suit No. 81 of 1956 against the wrong entry made in the revisional survey and Suit was decreed on 22.03.1956 in favour of Bisheshwar Mahto with respect to the lands of R.S. Khata No. 958 and 961 and possession was also confirmed. The said Bisheshwar Mahto executed a registered deed of Power of Attorney in favour of one Damodar Mandal, son of Ghunshi Mandal, authorizing him to execute the required sale deed. The holder of the Power of



Attorney had transferred the lands, the particulars of which have been mentioned in para-9 of the writ petition, to Chandra Prabha Devi through registered sale deed dated 04.02.1960 and put her in possession. Father of petitioner no.1 and grand-father of petitioner no.2 were acquired the land through registered sale deed dated 26.07.1965 through the vendor Chandra Prabha Devi and came on possession. After purchasing the land, Jamabandi was created and the petitioners have been coming in peaceful possession after making payment of the land rent.

4. Learned counsel for the petitioners further contended that, in the meantime, a land ceiling case vide Purnia Land Ceiling Case No. 318 of 1976-77 started against respondent no.3 and the lands in question were wrongly included in the afore-noted land ceiling case without verifying revenue records of Anchal. It is the contention of the petitioners that without any inquiry under Section 5(1)(iii) of the Land Ceiling Act, the lands in question of the petitioners were wrongly included and the same were acquired and notified under Section 15(1) of the Land Ceiling Act vide Notification No. 2873 dated 11.02.1991. After having come to know about wrong inclusion of the lands in question, petitioner no. 1 along with father and grand-father of petitioner no.2 filed a



Miscellaneous Ceiling Case No. 153 of 1991 before respondent no.2 under Section 45(B) of the Land Ceiling Act for exclusion of the land in question from the land ceiling case as well as from the notification after re-opening of the said ceiling case. The afore-noted miscellaneous ceiling case filed way back in the year 1991, was kept pending for almost three decades and all of a sudden in view of Amendment of the Bihar Act no. 18 of 2016, whereby Section 45(B) of the Land Ceiling Act has been deleted and by incorporating Section 45(D), all the proceedings pending under Section 45(B) stood abated; the Miscellaneous Ceiling Case No. 153 of 1991 was dropped by the Collector. The petitioners left with no option approached this Court by filing the present writ petition.

5. Adverting to the aforesaid facts, learned counsel for the petitioners further contended that the issue raised before this Court has been duly considered in an identical matter in **Rajani Kant Singh and Another v. The State of Bihar and Others [C.W.J.C. No. 5564 of 2018]**, wherein this Court vide judgment dated 08.08.2024 having considered the entire aspect of the matter and taking note of the fact that there is no compliance of Section 5(1)(iii) as well as Section 9(2) of the Land Ceiling Act, while exercising the extraordinary writ jurisdiction under Article



226 of the Constitution, relegated the matter to the Collector, Katihar, directing him to call for the records of the case and re-open the proceedings after holding an enquiry to be made under Section 5(1)(iii) of the Land Ceiling Act in presence of the legal heirs of landholders and pass an appropriate order.

6. *Per contra*, learned counsel for the State while countering the submissions afore-noted, submitted that so far the extraordinary jurisdictional power of this Court under Article 226 of the Constitution is concerned, the same has never been disputed. However, by the judgment dated 08.08.2027 passed by this Court, a jurisdiction has been created in favour of respondent/District Magistrate, which has already been divested by the Land Ceiling (Amendment) Act, 2016 and thus it would amount to creating a jurisdiction in favour of the District Magistrate without there being any statutory provision.

7. This Court has heard learned counsels for the respective parties and also perused the judgment passed by this Court dated 08.08.2024.

8. Before answering the points raised by learned counsel for the State, it would be apt to quote paragraphs no. 16 to 20 of the judgment dated 08.08.2024 passed in ***Rajani Kant Singh (supra)***.

“16. This Court has anxiously heard the submissions advanced on behalf of the learned



counsel for the respective parties and also perused the materials available on record. So far the contention raised by the learned Advocate for the State with regard to the repealing of Section 45 (B) and in terms of Section 45 (D), the proceeding under Section 45 (B) abated and, as such, the prayer of the petitioner is fit to be rejected, found no merit.

17. The constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Amendment Act, 2016 as also Amendment Act, 2019, whereby, apart from Section 16 (3), Section 45 (B) were repealed and a new provision Section 45 (D) was added, was duly considered by the learned Division Bench of this Court in ***CWJC No. 15060 of 2019*** and other analogous cases captioned as ***Sudhakar Jha Vs. The State of Bihar and Ors., 2024 (3) PLJR 409***. The learned Division Bench while holding the constitutional validity of the aforesaid Amendment Act has taken note of the fact that the provisions of Section 45 (B) was repealed and at the same time, Section 4 (I)(ii) and (iii) were added to Section 30. Section 30(4) (i) gives the power to Collector of a district to initiate a fresh proceeding under the Act, if he was satisfied that a landholder, fraudulently or by misrepresentation has managed to obtain an order from any of his subordinate authority. Similarly, Section 30(4)(ii) provided similar powers to the



Commissioner of a Division in case the order had been obtained from the Collector of a district. These were the amendments carried out in the principal act by the Amendment Act, 2016. Simultaneously, by the amending Act, amendment was also affected in Section 30 (sic)(13) by adding sub-Section 3 thereof, which provides that an appeal shall be disposed of within the period of six months.

18. Thus, in view of the aforesaid amendments, as noted hereinabove, indubitably, the Collector of a district is empowered to initiate a fresh proceeding under the Act, if he was satisfied that a landholder fraudulently or by misrepresentation has managed to obtained an order from the subordinate authority. Irrespective of repealing of Section 45 (B), which had earlier empowered the State Government to call for and examine records of any proceeding disposed of by a Collector under the Act and direct the case to be reopened. Still the Collector has the power to look into the matter if the circumstances warrants under Section 30(4) (i) of the amended act.

19. It is trite law that Article 226 of the Constitution of India is couched in comprehensive phraseology and it *ex facie* confers a wide power on the high court to reach injustice wherever it is found. A wide language in describing the nature of the power, the purposes for which and the person or authority against whom it can be exercised was



designedly used by the Constitution. The High Courts are enable to mould the reliefs to meet the peculiar and complicated requirements. However, the Apex Court has cautioned that there are some limitations implicit in the articles and this power cannot be exercised arbitrarily. The aforesaid observation has accorded by a three Judge Bench of the Hon'ble Supreme Court in the case of ***Dwarka Nath Vs. I. T. Officer, AIR 1996 SC 81.***

20. In the case of ***U. P. State Co-operative Land Development Bank Limited Vs. Chandra Bhan Dubey and Ors, AIR 1999 SC 753***, the Hon'ble Supreme Court placing reliance upon the aforenoted judgment has further held and observed that "Constitution is not a statute. It is a fountainhead of all the statutes. When the language of Article 226 is clear, we cannot put shackles on the High Courts to limit their jurisdiction by putting an interpretation on the words which would limit their jurisdiction. When any citizen or person is wronged, the High Court will step in to protect him, be that wrong be done by the State, an instrumentality of the State, a company or a cooperative society or association or body of individuals, whether incorporated or not, or even an individual. Right that is infringed may be under Part III of the Constitution or any other right which the law validly made might confer upon him. But then the power conferred upon the High Courts under Article 226 of the Constitution



is so vast, this Court has laid down certain guidelines and self-imposed limitations have been put there subject to which the High Courts would exercise jurisdiction, but those guidelines cannot be mandatory in all circumstances.”

9. In the aforesaid case, this Court having noted the provisions of Section 30(4)(i) of the Amending Act, which couched the Collector with the power to initiate a fresh proceeding or to reopen the ceiling proceeding, while exercising the power under Article 226 relegated the matter to the Collector; as *prima facie* there was no compliance of Section 5(1)(iii) as well as Section 9(2) of the Ceiling Act.

10. This Court is conscious of the fact that by deleting the prescription of Section 45(B) of the Ceiling Act and the proceeding pending under Section 45(B) having been abated by virtue of Section 45D of the Ceiling Act, the legislature has confined the power of the Collector with respect to initiating a fresh proceeding only to the grounds set forth in Section 30(4)(i) of the Ceiling Act, if the aggrieved party is able to satisfy the Collector that “a land holder, in a proceeding under the Act, by fraudulently or by mis-representation of facts or law, has managed to obtain an order from any of his subordinate authority with a view to defeat the object of the Act or any



provision thereof and retain land in excess of the ceiling area”.

11. In the opinion of this Court, the Amendment Act, 2016 has not completely ousted the jurisdiction of the Collector to reopen the matter but only confined it to certain contingencies, as discussed hereinabove. These observations are also answer to the question put forth by the learned counsel for the State.

12. In the afore-noted position of law, this Court set aside the order dated 09.02.2018 (Annexure-8) and relegated the matter to the Collector, Purnia, who shall call for the records of the case, re-open the proceeding, hold an inquiry or cause such an inquiry to be made under Section 5(1)(iii) of the Act in presence of all the stakeholders and pass an appropriate order taking into consideration the materials available on record, preferably within a period of six months from the date of receipt/production of a copy of this order.

13. The writ petition stands allowed.

**(Harish Kumar, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 05-10-2024 |
| Transmission Date |            |

