

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5354 of 2020

Jawahar Yadav Son of Late Ram Narayan Yadav Resident of Village-
Chandpur Bhangaha, Police Station- Banmankhi, Now- Jankinagar, District-
Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Government of Bihar in the Department of Revenue and Land Reforms, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Additional Collector Ceiling, Purnia.
4. The Sub Divisional Officer at Banmankhi Within the district of Purnia.
5. The Deputy Collector Land Reforms At Banmankhi within the district of Purnia.
6. The Anchal Adhikari At Banmankhi within the district of Purnia.
7. Bhikho Ram Son of Lakshmi Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
8. Mithilesh Ram Son of Late Brahmdeo Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
9. Satya Narayan Ram Son of Timu Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
10. Subhash Ram Son of Late Jitan Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
11. Kali Ram Son of Nageshwar Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
12. Sanjay Ram Son of Late Budhai Ram Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
13. Lal Paswan Son of Late Kamleshwari Paswan Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.
14. Thakur Paswan Son of Late Raghuni Paswan Resident of Village and P.O.- Chandpur Bhangaha, Police Station- Banmankhi (now- Janki Nagar), District- Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Prasad Ambastha
For the Respondent/s	:	Mr. Sajid Salim Khan (SC-25)



CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 12-02-2024 Heard the parties.

2. The petitioner has moved this Court for following
reliefs:

(a) For quashing the order dated 21.01.2019 at Annexure 4 passed by the Additional Collector, Ceiling by which ignoring the order finally passed by this Hon'ble Court in C.W.J.C. No-2349 of 1984 directing the Ceiling authorities to initiate fresh proceeding and adjudicate upon the claims of the petitioner, no fresh proceeding was started and after awaiting for long for compliance of the order, petition was filed but it has been incorrectly held that the order of this Hon'ble Court has been complied with and the petition was disposed rejecting the prayer of the petitioner.

(b) For issuance of a direction to the respondents authorities to comply with the order of this Hon'ble Court passed earlier in C.W.J.C. No- 2349 of 1984.

(c) For issuance of a direction to the respondents authorities for not taking any action for dispossessing the petitioner and his family members from the lands with respect to which red cards were distributed to the private respondents ignoring the orders



of stay passed by this Hon'ble Court in the said writ case.

3. Learned counsel for the petitioner submits that earlier his father had moved this Court in CWJC No. 2349 of 1984 which was disposed of on 09.05.1995 (Annexure-1 to the petition) and read as follows:

“The petitioners are aggrieved by the declaration of some of their lands as surplus by order dated 1-10-1982 (annexure-2) passed by the Additional S.D.O., Revenue (this post has now been abolished and the Deputy, Collector incharge ceiling is now decision of the matter). The petitioners had filed objection to the draft statement, but the objection did not find favour. The petitioner did not file any appeal. They moved the Board of Revenue in Revision thought. The Revision was rejecting by the Additional Member, Board of Revenue by order dated 14-4-1984, which is annexure-1 to this petition. The petitioner's grievance is Writ application is that the dismissal of their Revision by the Concileation Member, Board of Revenue was illegal and without Jurisdiction.

It is not necessary for us to adjudicate upon the grievance of the petitioners in view of the provisions under Section 32 B of the



Bihar Land Ceiling Act, (in short the Act) which lays down that proceeding in which final publication under Sub-Section (1) of Section 11 has not been effected, shall be disposed of afresh. It is not in dispute that although order had been passed in the Year 1982, but no notification under Section 11 of the Act had been published upt 9-4-1981. In that view of the matter, the ceiling authorities were obliged to initiate fresh proceeding and adjudicate upon the claims of the petitioner.

The orders of the Additional Member, Board of Revenue and mist, therefore, be quashed. The Ceiling Authorities should now proceed in terms of Section 32 B of the Act.

The application is, accordingly, disposed of.”

4. He, thereafter, has taken this Court to the order passed by the Court of Additional Collector Ceiling, Purnea in Land Ceiling Case No. 03/2017-18 dated 21.09.2019 to show that the order of the Hon’ble Court was not complied with. He has specifically stated in paragraph 29 as follows:

“29. That the respondent No-3 also looked Into the day to day ordersheet of the original case record but could not be able



to state if any final statement under Section-11 (1) of the Act on its publication in the district gazette was ever sent to the land holder uptill-09.4.1981. Ignoring the finding and the order dated 09.5.1985 passed by this Hon'ble Court directing taking up of the original Land Ceiling Case afresh, it has wrongly been mentioned that the order dated 09.5.1985 is already complied because compliance of Section-32 B of the Act has already been done by the then Ceiling Authority.”

5. Learned State counsel has taken this Court to the counter-affidavit filed on behalf of the respondent Authorities and in paragraph 21, it has been replied as follows:

“21. That with respect to the statement made in Para 29 of the writ application it is respectfully submitted that the draft statement under Section 11 of the Act was made and sent to the land holder on 02/11/1982 and the publication under Section 11 was done on 13/11/1982 vide District Gazette Notification No. 9 which is evident from the order dated 13/05/1983 passed in Land Ceiling Case No. 390/1973-74 (annexed as Annexure 2 of the writ application).”



6. Having gone through the facts of the case as also the order of this Court in CWJC No. 2349 of 1984, this Court finds force in the submission put forward by the learned counsel for the petitioner.

7. In paragraph 3 to 5 of the order, the learned ADM, Ceiling, Purnea in its order dated 21.01.2019 has narrated as follows:

“3. It has also been held by the Hon'ble High Court-" In the exercise of powers conferred by Section 32 B, the appellate court cannot exercise any suo motu jurisdiction similar to that of the revisional authority under section 32. Shiv Nandan Mishra Vs. State of Bihar, 1993 (2) PLJR 311.

Where the land ceiling proceeding has abated in terms of provisions of section 32 B as no notification under section 11(a) had been issued prior to date of coming into force of the Amendment Act 55 of 1982 the High Court may remand the proceeding and direct the proceeding to be heard again from the stage of section 10. ibid."

4. Section 32 B was instituted by Bihar Act 55 of 1982 [Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (amendment) Act-1982] published in



Bihar Gazettee (ex-ord) dated 30.04.1982. By this amendment Act, The Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of Surplus Land) (amendment) ordinance, 1982 which came into force with effect from 09.04.1981 was repealed.

5. From the perusal of order sheet of original and Ceiling Case No. 390/73-74 following facts came to light -

a. On 09.04.81 draft statement made under section 10(2) of the Act was again sent to the land holder by registered post.

b. On 16.05.1981 the land holder filed objection under Section 10(3) of the Act.

c. On 10.05.1982 again draft statement u/s 10(2) was prepared the light of new Amendment and its copy was sent to Land holder by registered post of file objection if any.

d. On 01.09.1982 the land holders filed objection under section 10(3) of the Act but there after remained absent. Hence the objection petition was disposed ex-parte.

e. Further after following procedure duly, finally the land in question was declared surplus vide notification no. 2180 dated 14.06.1983.”

8. From the aforesaid fact it is clear that the observation of the High Court to proceed in terms of Section 32



D of the Act has not been fully complied and in paragraph-5 a cryptic order has been passed. In that view of the matter, the case of the petitioner has to be reconsidered by the respondent Authority.

9. The order dated 21.01.2019 passed by the ADM, Ceiling, Purnea in land ceiling case No. 390/73-74 (land Ceiling Case No. 03/2017-18, stands quashed.

10. The Authorities concerned are required to act strictly in line with the earlier order passed by the Patna High Court in CWJC No. 2349 of 1984 and pass a reasoned order after taking up the proceeding in terms of Section 32B of the Land Ceiling Act.

11. CWJC No. 5354 of 2020 stands disposed of.

(Rajiv Roy, J)

Adnan/-

U			
---	--	--	--

