

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16502 of 2022

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Shiv Kumar Paswan son of Late Ganeshi Paswan resident of village- Asma,
Ward No. 16, Police Station- Kusheshwar Asthan, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Honble Chairman, Bihar Land Tribunal Patna, Polo Road, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Collector, Darbhanga.
4. The Deputy Collector Land Reforms, Beraul, District- Darbhanga.
5. Girdhari Agrawal son of Gopal Agrawal
6. Bhikhari Poddar son of Heman Poddar
7. Chaturbhuj Lal son of Ganga Lal
All residents of village and Police Station- Kusheshwar Asthan, District- Darbhanga.
8. Deepak Kumar son of Late Ashok Kumar resident of village and Police Station- Kusheshwar Asthan, District- Darbhanga.
9. Chandra Shekhar Sah son of Ramjee Sah resident of village- Sakirna, Police Station- Kusheshwar Asthan, District- Darbhanga.
10. Ram Chandra Paswan son of Gheena Paswan resident of village- Adalpur, Police Station- Kusheshwar Asthan, District- Darbhanga.
11. Ashok Sah son of Late Mahavir Sah resident of village- Sakirna, Police Station- Kusheshwar Asthan, District- Darbhanga.
12. Ganesh Sah son of Baua Sah
13. Ballo Sah son of Baua Sah
Both are resident of village- Sakirna, Police Station- Kusheshwar Asthan, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Nibash Prasad, Advocate
For the Respondent/s : AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 25-11-2024 Heard learned counsel for the petitioner and learned



AC to AAG-12.

2. The learned counsel for the petitioner submits that the dispute in the present case relates to land pertaining to khata no.260, plot no.1088 and 1089, area 66 decimals and 16 decimals respectively at village-Asma, P.S.-Kusheshwar Asthan, District-Darbhangha.

3. It is submitted that the land in dispute belonged to the landlord Shiva Kant Jha, against whom Land Ceiling Case No.01 of 1973-74 was initiated, in the ceiling proceeding lands of the landlord was declared surplus including the aforesaid lands as would manifest from Notification No.169 dated 20.01.1977 (Annexure-1). The petitioner was given Purcha for total one acre of land on 25.02.1980 (Annexure-2) i.e. 66 decimals land of plot no.1088 and 16 decimals of land of plot no.1089, both under khata no.260, further 18 decimals land of plot no.1078 was also given under khata no.86. The learned counsel submits that the land pertaining to khata no.86, plot no.1078, area 18 decimal is not in dispute.

4. It is submitted that after the petitioner came in possession over the land in dispute, he applied for mutation and Jamabandi no.663 was created, accordingly rent receipt was issued. The learned counsel submits that he has brought some of



the rent receipts and the last rent receipt is dated 16.10.2022 (Annexure-3).

5. It is submitted that the private respondents started disturbing the possession of the petitioner over the land in dispute on the ground that they purchased the land from the landlord or from purchasers who had purchased the land from the landlord. A proceeding under Section 144 Cr.P.C. was initiated against the land in dispute at the instance of Shiv Shankar Lal, giving rise to Case No.506 of 2008, but the SDO, Biraul by an order dated 19.12.2008, made the rule absolute against Shiv Shankar Lal and vacated the rule in favour of the petitioner.

6. It is submitted that some of the private respondents got the name of Ram Chandra Paswan mutated with regard to 1 kattha 5 dhur land of plot no.1088 vide Jamabandi no.934, accordingly petitioner filed Jamabandi Cancellation Case No.36 of 2012-13 before the Additional Collector, Darbhanga and the same was allowed by an order dated 24.07.2014 (Annexure-5) and thus Jamabandi no.934 was cancelled.

7. It is submitted that the land Land Ceiling Case No.1973-74 was again reopened vide Land Ceiling Case No.18 of 1990-1991 on objection of purchasers. The land transferred



by the landlord prior to 09-09-1970 were excluded from the acquisition as would manifest from order dated 30.12.1993 (Annexure-6).

8. The petitioner asserts and submits that the land purchased by the private respondents pertaining to plot no.1088 was after 09-09-1970 and thus was not excluded. The learned counsel for the petitioner submits that from perusal of the order dated 30.12.1993, it would manifest that plot no.1088, khata no.260 finds mention at page-41 of the writ petition. It is next submitted that the said land is shown to be sold by the land owner in favour of Kailash Prasad Gupta on 16.01.1989 i.e. after 09-09-1970.

9. The learned counsel next draws the attention of the Court to the order dated 30.12.1993 at page-47 of the writ application to submit that the Additional Collector in Land Ceiling Case No.18 of 1991 recorded that altogether 49 objections were received from the purchasers who were claiming to have purchased the land from the land owner prior to 22.10.1959 and 09.09.1970, as such the lands which were purchased by the purchaser prior to 09-09-1970 were excluded from Land Ceiling Case No.1973-74.

10. The learned counsel for the petitioner



submits that the land pertaining to plot no.1088 was purchased after 09-09-1970, as such the same was not excluded from the purview of the land ceiling case.

11. It is next submitted that since the private respondents were disturbing the possession of the petitioner over the land in dispute, hence the petitioner filed an application in the 'Janta Darbar' of the District Magistrate alleging that private respondents are trying to dispossess him from the land for which Purcha (Annexure-2) was issued. The application of the petitioner was forwarded to DCLR, Biraul by an order dated 23.05.2013 based on which DCLR registered Case No.150 of 2013-14.

12. The DCLR dismissed the Case No.150 of 2013-14 by his order dated 20.05.2014 (Annexure-7) on the ground that the land pertaining to plot no.1088 and 1089 were also excluded from the list of acquisition as per order dated 30.12.1993 (Annexure-A to the supplementary counter affidavit on behalf of the respondent no.3 and 4) in Land Ceiling Case No.18 of 1990-91, further fresh ceiling Purcha was issued in favour of petitioner for plot no.708 (6/6) area 48.5 decimal as would manifest from the order passed in Case No.1/07-08 (Annexure-B to the supplementary counter affidavit of



respondent no.3 and 4) which was initiated after the order dated 30.12.1993 was passed in Land Ceiling Case No.18/1990-91.

13. The petitioner against the order dated 20.05.2014 passed by the DCLR, Biraul in Case No.150 of 2013-14 filed Land Dispute Appeal No.240 of 2014 before the Divisional Commissioner, Darbhanga Division, but the appeal was dismissed by an order dated 19.03.2019 (Annexure-8) with an observation that petitioner should move before the Circle Officer, Kusheshwar Asthan to seek possession over the land for which fresh Purcha was issued. The petitioner being aggrieved by the order in appeal passed by the Divisional Commissioner, filed BLT Case No.367 of 2019 which was dismissed for non-prosecution by an order dated 14.10.2022 (Annexure-9) passed by the learned Chairman, BLT, thus affirming the order of the Divisional Commissioner in appeal.

14. The learned counsel submits that the order passed by the learned Chairman, BLT dated 14.10.2022 is impugned in the instant writ application on the ground that the case was dismissed for non-prosecution, but then the learned Chairman, BLT touched the merits of the case without appreciating the facts of the case in correct perspective.

15. The learned counsel next submits that though



it is the case of the respondent authorities that fresh Purcha was issued in favour of the petitioner for plot no.708 (6/6) area 48.5 decimals after the order dated 30.12.1993 was passed in Land Ceiling Case No.18/1990-91, but then the Purcha issued in favour of the petitioner on 25.02.1980 (Annexure-2) was never cancelled. It is submitted that the Purcha relating to plot no.1088, khata no.260 could not have been cancelled for the reason that plot no.1088 was not excluded in pursuance of the order dated 30.12.1993 in Land Ceiling Case No.18 of 1990-91. It is submitted that only those lands of the landholder were excluded from the ceiling case which were sold prior to 09.09.1970 as recorded herein above and the land pertaining to plot no.1088 was purchased by the purchaser on 16.01.1989, hence was not excluded and this perhaps explains why Purcha initially issued in favour of the petitioner in the year 1980 till date has not been cancelled.

16. The learned counsel next submits that though the respondent authorities are claiming that a fresh Purcha has been issued but then the petitioner till date has not been given possession over the land in terms of the fresh Purcha issued.

17. The learned counsel thus submits that these aspects of the matter was not considered by the learned



Chairman, BLT and the case was dismissed for non-prosecution and at the same time the learned Chairman, BLT while dismissing the case for non-prosecution even touched the merits of the case which cannot be countenanced.

18. The learned counsel appearing on behalf of the State is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner in pursuance of the order dated 30.12.1993 annexed as Annexure-6 to the writ application and Annexure-A to the supplementary counter affidavit on behalf of the respondent no.3 and 4 after perusing page-41 and 47 of Annexure-6 to the writ application.

19. The learned counsel for the State next submits that notices be issued on the private respondents, on which the learned counsel appearing on behalf of the petitioner submits that no useful purpose would be served by issuing notice on the private respondents for the reason that the court is not adjudicating the case on merits rather is remanding the matter back to the BLT for adjudicating the case afresh on merits where the private respondents would get an opportunity to contest the case.

20. After hearing the learned counsel for the parties, the Court prima facie is in concurrence with the



submissions made by the learned counsel appearing on behalf of the petitioner and as such the order dated 14.10.2022 passed by the Hon'ble Chairman, Bihar Land Tribunal, Patna in BLT Case No.367 of 2019 is hereby quashed and the matter is remanded back to the BLT for deciding the case afresh on merits.

21. It is made clear that the Court has not gone into the merits of the case.

(Satyavrat Verma, J)

Prakash Narayan

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