

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16374 of 2024

1. Ramanath Chaudhuri @ Ramanath Choudhary son of Late Rudranath Choudhary @ Rudranadh Chaudhuri, resident of Village and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar (Bihar) PIN CODE- 855105
2. Rubi Chaudhary Wife of Late Girindra Nath Choudhuri D/o Late Rudranath Choudhary @ Rudranadh Chaudhuri, resident of Village and Post Office- Durgaganj, Police Station Kadwa, District- Katihar (Bihar) PIN CODE- 855105

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Director, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The District Collector, Katihar
4. The Additional Collector (Ceiling), Katihar
5. The Deputy Collector, Land Reforms, Barsoi, Katihar
6. The Anchal Adhikari, Anchal- Kadwa, District- Katihar.
7. Jai Kishori Devi Wife of Late Ravindranath Choudhary, Son of Late Baidyanath Choudhary, resident of Village and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
8. Priyavrat Choudhary Son of Late Ravindranath Choudhary, resident of Village and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
9. Smt. Satyapriya Devi Daughter of Late Ravindranath Choudhary, resident of Village and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
10. Abhay Kishori Devi Wife of Late Amrendranath Choudhary, Son of Late Baidyanath Choudhary, resident of Village and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
11. Vedvrat Choudhary Son of Late Amrendranath Choudhary, resident of Village- and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
12. Smt. Priyamvada Devi Daughter of Late Amrendranath Choudhary, resident of Village- and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.
13. Smt. Chitrangada Devi Daughter of Late Amrendranath Choudhary, resident of Village- and Post Office- Durgaganj, Police Station- Kadwa, District- Katihar, (Bihar). PIN CODE-855105.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Jibendra Mishra
For the Respondent/s : Mr. AC to SC-15

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 28-10-2024 Heard the learned counsel for the petitioners and the
learned AC to SC-15.

2. The learned counsel submits that the instant writ application has been filed for quashing the Katihar District Gazette Issue No.01/19-20 dated 10.06.2019 (Annexure-14) vide Notification No.104 dated 01.06.2019 published under section 11(1) of the Bihar Land Ceiling Act, 1961 (hereinafter referred the 'Act') and also the Katihar District Gazette Issue No.03/2021-22 dated 17.04.2021 issued vide Notification No.36 dated 09.04.2021 under section 15(1) of the Act (Annexure-15) in Land Ceiling Case No.02/1984-85 (State Versus Smt. Prem Kishori Devi substituted by Ravindra Chaudhary and another) so far as the same includes the land of the petitioners, further to stay the operation of the aforesaid impugned notifications and restraining the respondent authorities as well as the private respondents no.7-13 from interfering with the peaceful possession of the petitioners over the land in question, which have been wrongly and illegally opted by the substituted land holder in their unit, which has been permitted by the authorities without issuing any notice to the petitioners or making any



enquiry in complete violation of the order passed by the B.L.T. in B.L.T. Case No.64/2014.

3. The learned counsel for the petitioners submits that before making submissions on merits, it is pertinent to bring on record the facts, which have relevance for adjudication of the issue in dispute.

4. It is submitted that the land in dispute in the instant case pertains to Khata No.252, Khesra No.836, Area 1.50 acres from the Middle, Khata No.253, Khesra No.1023, Area .95 acres (entire), Khesra No. 1028, Area .92 acres from North, Khesra No.844/2049, Area 0.06 acre from West and 0.14 acres (entire) and Khata No.208, Khesra No.921, Area 0.20 acres (entire).

5. The learned counsel submits that one Budhinath Choudhary had two sons, namely, Chhatranath Choudhary and Raja Tanknath Choudhary, Chhatranath Choudhary had one son, namely, Baidynath Choudhary (who was the husband of the original land holder Prem Kishori Devi) while Raja Tanaknath Choudhary had three sons, namely, Karamnath, Rudranath and Sheshnath. It is submitted that petitioner no.1 and Girindranath Choudhary are sons of Rudranath Choudhary. It is submitted that after the death of Girindranath Choudhary, his wife,



petitioner no.2 herein was substituted in the case.

6. It is submitted that in pursuance of Khangi Batwara of 1956, the landed property of Budhinath Choudhary was divided and petitioners got 8.28 acres of land, as would manifest from the report of the Amin (Annexure-2 to the writ application), the land which the petitioners inherited are the lands mentioned hereinabove. It is submitted that a land ceiling proceeding was initiated vide Land Ceiling Case No.2/1984-85 against Prem Kishori Devi wife of Baidyanath Choudhary. The petitioners submit that they have only 8.28 acres of land in their share from the ancestral landed property, hence they have no surplus land. It is also submitted that the name of the petitioners and their father was separately recorded in the Chakbandi register (Annexure-3 to the writ application), as such, the lands of the petitioners right from the beginning were separate from the land of the original land holder i.e. Prem Kishori Devi against whom the aforesaid land ceiling case was initiated. It is submitted that Prem Kishori Devi was Aunt (chachi) of the petitioner no.1 and cousin mother-in-law of petitioner no.2.

7. It is next submitted that in Land Ceiling Case No.2/1984-85 initiated against Prem Kishori Devi, mother-in-law and grand mother of the private respondents herein,



notification under section 11 of the Act was published declaring 189.73 acres of land as surplus, thereafter the surplus land was acquired under section 15 of the Act and Gazette Notification No.15(Mukhya) dated 31.08.2004 (Annexure-4 to the writ application) was issued by the Collector in which the lands of the petitioners were also clubbed. It is submitted that the surplus land were settled with the landless persons through the red card which also included the lands of the petitioners.

8. The learned counsel submits that the father of petitioner no.1 was not impleaded as the party in the Ceiling Case No.2/1984-85 nor the petitioners were given any opportunity of hearing under section 5(i)(iii) of the Act. It is submitted that after the notification under section 11 and 15 were issued, thereafter petitioner no.1 and late husband of petitioner no.2 namely Girindranath Choudhary filed C.W.J.C. No.12610/2004 challenging the Gazette Notification No.15 of the Ceiling Act. The C.W.J.C. No.12610/2004 was disposed of by an order dated 24.04.2013 (Annexure-5 to the writ application) with liberty to the petitioners to avail alternative remedy before the B.L.T.

9. Accordingly, the petitioner no.1 and his brother filed B.L.T. Case No. 64/2014 (Ramnath Choudhary and



Another Vs. State of Bihar & Others) challenging the notification issued under section 15 (i) of the Act. The B.L.T. issued notices on the private respondents herein who appeared and controverted the stand of the petitioner no.1 and his brother. The Hon'ble Chairman of the B.L.T. vide order dated 09.07.2015 (Annexure-6 to the writ application) allowed B.L.T. Case No.64/2014 and quashed the notification issued under section 15 of the Act and also the Parwana issued in favour of landless persons with a direction to the Collector to dispose of the case within 3 months.

10. The learned counsel submits that the Hon'ble Chairman, B.L.T. while passing order dated 09.07.2015, also noticed and took into consideration the order dated 31.03.2011 (Annexure-7 to the writ application) in L.P.A. No.502/2011 filed by own cousin brother of the petitioner no.1 i.e. Mahendra Nath Choudhary, who was son of late Sheshnath Choudhary and whose case was akin to the case of the petitioners, in which, Gazette notification issued under section 11 (i) and 15(i) of the Act was quashed and thereafter the land of Mahendra Choudhary, appellant in LP.A No.502/2011 was exempted from the Ceiling Case No.02/1984-85 vide Gazette Notification No.21 of 2014 dated 24.10.2014 (Annexure-8 to the writ



application).

11. The learned counsel submits that in compliance of the order passed by the B.L.T., the petitioner no.1 and his brother Girindra Nath Choudhary filed a petition dated 21.08.2015 (Annexure-9 to the writ application), before the Collector annexing the order passed by the Hon'ble Chairman, B.L.T. dated 09.07.2015.

12. The Collector, Katihar accordingly initiated Misc. Case No.407/2015-16, in pursuance of the petition dated 21.08.2015 filed by the petitioner no.1 and his brother and thereafter issued notice on private respondents herein vide order dated 24.09.2016 (Annexure-10 to the writ application). The learned counsel submits that when Misc. Case No.407/2015-16 was instituted, thereafter Ravindra Nath Choudhary, son of Late Prem Kishori Devi filed an application in the Misc. Case No.407/2015-16 to implead him as an intervener petitioner.

13. It is submitted that the Misc. Case no.407/2015-16 was transferred to the Court of Additional Collector, Katihar for disposal, in the said Misc. Case, a report was called for from the C.O., Kadwa who in turn directed the revenue karmchari to hold an inquiry and to submit a report, accordingly, the revenue karmchari vide his Memo dated 02.07.2020 (Annexure-12 series



to the writ application) submitted a report to the C.O. recording therein that petitioner no.1 and Girindra Nath Choudhary are small scale farmers and do not possess land in excess of ceiling area, thus, recommended for reconsidering their case and also referred to the case of Mahendra Choudhary, whose land was de-notified as recorded hereinabove, since the case of Mahendra Choudhary was akin to the case of the petitioners.

14. It is submitted that while Misc.Case No.407/2015-16 was pending adjudication when petitioners came to know that Amrendra Choudhary son of Late Prem Kishori Devi and husband and father of respondent no.10 to 13 had filed a petition dated 31.01.2022 (Annexure-13 to the writ application), before the Additional Collector regarding non-compliance of the order of the Collector contained in Memo No.47 dated 03.04.2021 in L.C. Case No.2/1984-85. The petitioners accordingly inquired that as to what steps have been taken by the authorities in pursuance of letter dated 31.01.2022 (Annexure-13 to the writ application), when the petitioner no.1 came to know that a District Gazette Notification No.1/2019-20 dated 10.06.2019 (Annexure-14 to the writ application) has been issued as draft statement under section 11(i) of the Act in L.C. Case No.2/1984-85, vide notification no.104/BHU.HA. Katihar dated



01.06.2019, further in the said notification dated 10.06.2019, the substituted land holder Ravindra Nath Choudhary and another have opted the lands for keeping in their unit measuring an area of 75 acres, in which, they have wrongfully included some lands of the petitioners which is in their cultivating as well as residential possession. Further, it also transpired that in light of Gazette notification dated 10.06.2019, the Gazette Notification No.3/2021-22 dated 17.04.2021 has been issued vide notification dated 09.04.2021 (Annexure-15 to the writ application), after obtaining permission of the Collector by his order dated 01.03.2021 and a copy of the notification has been sent to Amrendra Nath Choudhary vide Memo No.47 dated 30.04.2021 (Annexure15/1 to the writ application). The petitioners on coming to know about the said development, filed a petition dated 17.02.2022 (Annexure-16 to the writ application) in Misc. Case No.407/2015-16 to restrain the substituted land holder and also for a direction upon the C.O., Kadwa not to disturb their possession in light of fictitious petition filed by Amrendra Nath Choudhary, but no action till date has been taken despite Additional Collector, Katihar directing the C.O., Kadwa to submit a report.

15. The learned counsel appearing on behalf of the



petitioners further submits that from the facts recorded hereinabove, it becomes clear that the Collector and the Additional Collector have violated the orders of the Hon'ble Chairman, B.L.T. dated 09.07.2015 passed in BLT Case No.64/2014. It is submitted that in pursuance of the order dated 09.07.2015, passed by the BLT, the petitioner no.1 and his brother had represented before the Collector, Katihar, in pursuance whereof, Misc. Case No.407/2015-16 was instituted for complying the order passed by the B.L.T. after hearing the parties. Thereafter, the said Misc. case was transferred to the Court of Additional Collector wherein a report was called for from the C.O., Kadwa in pursuance whereof the revenue karmchari submitted his report recording therein that petitioners are small scale farmers and they do not have land in surplus of the ceiling area and thus had recommended to reconsider their case. It is submitted that while the Miscellaneous case was pending adjudication before the Additional Collector, the aforesaid notifications under section 11(i) and 15(i) of the Act came to be issued in the year 2019, which are impugned in the present writ application. It is further submitted that the Hon'ble Chairman, B.L.T. while allowing the BLT Case No.64/2014 had taken note of the order dated 31.03.2011 in LPA No. 502/2011,



whereby this Court in the case of Mahendra Nath Choudhary, whose case was akin to the case of the petitioners had allowed the appeal in pursuance whereof their lands were de-notified.

16. It is submitted that had the Miscellaneous case been adjudicated perhaps the petitioners also would have been in a position to get the relief which Amrendra Nath Choudhary got. It is submitted that the Collector, Katihar was aware of the fact that Misc. Case No.407/2015-16 is pending adjudication but still allowed the publication of notification under sections 11(i) and 15(i) of the Act, wherein Ravindra Nath Choudhary, the substituted legal heir of the original land holder opted for 75 acres of land in total which also included the land of the petitioners when from the facts recorded hereinabove, it is clear that the petitioners right from the beginning after Khangi batwara had come in separate possession of their land and they do not have any land in excess of 8.28 acres of land.

17. At this stage, the learned counsel appearing on behalf of the State submits that since fresh notifications under sections 11 (i) and 15(i) of the Act has been made by the Collector, in that event, if the petitioners were aggrieved they could have moved before the BLT praying for initiating a proceeding of contempt against the Collector, Katihar and the



Additional Collector that as to why the aforesaid notifications were issued when Misc. Case No.407/2015-16 was pending adjudication or could have moved before the BLT, seeking quashing of the notifications issued under sections 11(i) and 15(i) of the Act in the year 2019 issued without adjudicating the Misc. Case No.407/2015-16. The learned counsel appearing on behalf of the State thus submits that petitioners without availing alternative remedy has directly approached this Court.

18. After hearing the learned counsel for the parties, the Court prima facie is of the view that petitioners have an alternative remedy of moving before the B.L.T. as such the writ application is disposed of with a direction to the petitioners to avail their alternative remedy before the B.L.T. In the event, if the petitioners file a case before the B.L.T. challenging the notifications impugned in the present writ application on or before 29.11.2024, the Court expects that the Hon'ble Chairman would take into consideration the fact that petitioners had approached this Court directly in its writ jurisdiction for getting the grievance adjudicated while considering the issue of limitation.

19. It is made clear that if the petitioners approach the B.L.T. on or before 29.11.2024, in that event, the notifications



impugned, in the instant writ application shall remain stayed until the first date on which the case is taken up by the B.L.T.

20. The writ application is accordingly disposed of.

(Satyavrat Verma, J)

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