

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3511 of 2019**

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M/s Motipur Sugar Factory Limited a company incorporated under the Indian Companies Act, 1956 having its registered office at Motipur, P.O. and P.S. Motipur, District- Muzaffarpur, Bihar through one of its Director Mahmood Yacoob (Male), aged about 68 years son of Late Yacoob Haji Ibrahim @ Yacoob Ibrahim, resident of 2, Raj Mohan Street, Kolkata (West Bengal).

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, in the Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
2. The Collector, Muzaffarpur.
3. The Addl. Collector, Muzaffarpur.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Raghib Ahsan, Sr. Advocate<br>Mr. Asif Kalim, Advocate<br>Mr. Wasi Akhtar, Advocate |
| For the State        | : | Mr. Sajid Salim Khan (SC-25)<br>Mr. Arifdaula Siddiqui, Advocate                        |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 24-07-2025**

Heard learned Senior counsel for the petitioner and learned Senior counsel for the State.

2. The present writ petition has been filed for quashing of the order dated 02.11.2018 in Misc. Case No.42 of 2014-15 passed by the Respondent Collector, whereby the Land Ceiling Case No.25 of 1973-74 has been remanded to the Additional Collector for ensuring initiation of proceedings in



accordance with law and for a direction to the Additional Collector (Respondent no.3) to publish draft-statement under section 10(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act No.XII of 1962) (hereinafter referred to as 'Act of 1961') incorporating the substance of the orders dated 12.04.2005 and 24.05.2005.

3. Learned Senior counsel for the petitioner submits that the petitioner is a company incorporated under the Companies Act, 1956 having its registered office at Motipur, District- Muzaffarpur. Senior counsel submits that a Land Ceiling Case No.25 of 1973-74 was initiated against M/s Motipur Sugar Factory Ltd. (petitioner) and a draft statement under section 10(2) of the Act of 1961 was published showing therein that the petitioner held approximately 4000 acres of land which included lands transferred before 09.09.1970, the appointed date in the ceiling law. Senior counsel submits that the dispute relating to land which has been sold by the petitioner to different persons has been exempted under the provisions of Act of 1961. According to him, enquiry in respect of any transfer of land by a landlord has to be made under section 5(1)(iii) of the Act of 1961. Senior counsel submits that against the draft



statement, the petitioner as also various transferees from the Sugar Factory filed objection under section 10(3) of the Act of 1961, objecting to the inclusions of the lands transferred and prayed for exclusion of the lands transferred from the draft statement. Senior counsel further submits that the Additional Collector had refused to exclude the transferred lands from the draft statement made under section 10 of the Act of 1961 on the presumption that though the sale deed was executed on 31.08.1970, the same was presented for registration on 09.09.1970. It is due to this reason, the sale was held inoperative since the registration of the deed was not completed before the cut-off date i.e. 09.09.1970. Senior counsel submits that the said orders were challenged by the petitioner as well as by the purchasers including others which was dismissed by the Collector *vide* order dated 30.03.1981 in Appeal No.10 of 1976-77. The order dated 30.03.1981 passed in Appeal No.10 of 1976-77 was assailed in Revision Case No.163 of 1981. While the revision application was pending, the State of Bihar promulgated Bihar Ordinance no.66/81 which was replaced by the Bihar Act 45 of 1982. By the said Ordinance, sections 32-A and 32-B were made retrospective and enforced from 09.09.1970.



4. Learned Senior counsel for the petitioner further submits that the Additional Member, Board of Revenue by order dated 07.12.1981 has disposed off the Revision Case No.163 of 1981 with observation that the Collector shall hold fresh enquiry in all the transactions of proceedings made by the land holder after 22<sup>nd</sup> October, 1959, in accordance with the new provisions of law. Senior counsel submits that no enquiry was made by the Collector in compliance of order passed by the Additional Member, Board of Revenue under section 5(1)(iii) of the Act of 1961. But on 05.07.1985, a new draft statement under section 10(2) of the Act of 1961 was prepared in the name of Sugar Factory which was published in the District Gazette dated 22.07.1985. Senior counsel further submits that the lands sold by the transferees were shown as land held by the Sugar Factory. On 14.08.1985, the petitioner as well as the transferees filed a petition under section 10(3) of the Act of 1961. Senior counsel submits that before the Additional Collector, Muzaffarpur, two petitions were filed dated 09.12.1985 and 02.01.1986 for holding that the ceiling proceedings against the Sugar Factory had abated. The said petitions were rejected by the order dated 29.01.1986. Thereafter, the said order dated 29.01.1986 has been challenged in C.W.J.C. No.1071 of 1986 which was admitted for



hearing on 14.03.1986 and by ad-interim order dated 14.03.1986, this Hon'ble Court has pleased to stay the proceedings in Land Ceiling Case No.25 of 1973-74. Senior counsel submits that during pendency of the C.W.J.C. No.1071 of 1986, the Deputy Secretary to the Government of Bihar by communication bearing no.10C (LC)35-1-1/88 to the Collector, Muzaffarpur mentioning that all the movable and immovable properties of M/s Motipur Sugar Factory Ltd. had vested in the State of Bihar following the acquisition under the Acquisition Act, 1985. On receiving the communication, the Additional Collector by order dated 08.09.1988, stayed further proceedings in the ceiling case. From 08.09.1988 till October, 1993, the proceedings remained kept in abeyance. Senior counsel further submits that another letter dated 12.07.1993 of the Department of Revenue and Land Reforms, Government of Bihar indicates that only 1297.40 acres of land out of the Sugar Factory's land had been acquired by the State Government and accordingly, directed to proceed with the ceiling case in respect of remaining lands of the Sugar Factory. Direction was given to issue notice to the erstwhile owner of the Sugar Factory and another person whose name figured in the land ceiling proceedings.

5. Learned Senior counsel for the petitioner further



submits that another writ petition was filed bearing C.W.J.C. No.3578 of 1994 for quashing of the order dated 29.01.1985 and the orders dated 12.10.1993 and 29.10.1993. Both the writ petitions i.e. C.W.J.C. No.1071 of 1986 & C.W.J.C. No.3578 of 1994 were heard together and disposed off *vide* order dated 28.01.1997 passed by this Hon'ble Court whereby and whereunder, this Hon'ble Court has quashed the order dated 29.01.1985 (impugned in C.W.J.C. No.1071 of 1986) and the orders dated 12.10.1993 and 29.10.1993 (impugned in C.W.J.C. No.3578 of 1994) and the matter was accordingly, remitted back to the Additional Collector (Ceiling), Muzaffarpur. Senior counsel submits that the said proceeding was never been challenged by the respondent authorities and thus, it attained finality, but without any new relevant material on record has re-opened the case using power under section 45(B) of the Act of 1961. Senior counsel submits that it is pertinent to mention here that the direction made by this Hon'ble Court dated 28.01.1997 passed in C.W.J.C. No.1071 of 1986 & C.W.J.C. No.3578 of 1994 has never been followed. Senior counsel further submits that an *ex parte* enquiry report was also provided by the Additional Collector. In the said report, the *ex parte* proceeding, reliance was made on the letter of Principal Secretary in which



right and title of the Factory itself has been doubted and recommendation was made for invoking section 45(B) of the Act of 1961 to be referred to the Hon'ble Minister, Land & Revenue Department, Government of Bihar in relation to both land ceiling cases i.e. Land Ceiling Case No.24 of 1973-74 and Land Ceiling Case No.25 of 1973-74. Thereafter, order dated 21.01.2014 has been passed by the Minister, Land & Revenue Department, Government of Bihar under section 45(B) of the Act of 1961 in Case No.1/2012-13, wherein the Minister has pleased to revive the Land Ceiling Case No.25 of 1973-74 again in an *ex parte* proceeding, directing the Collector to decide the same. Senior counsel further submits that the petitioner being aggrieved by the order dated 21.01.2014, filed application under section 9 before the Bihar Land Tribunal. The opening of Land Ceiling Case No.25 of 1973-74 has been challenged by virtue of B.L.T Case No.333 of 2014 and opening of Land Ceiling Case No.24 of 1973-74 has been challenged in B.L.T. Case No.253 of 2014. Senior counsel submits that the present writ petition has arisen from the order passed and related to Land Ceiling Case No.25 of 1973-74. Subsequently, Case No.1/2012-13 by which proceedings under section 45(B) of the Act of 1961 has been initiated and challenged in B.L.T Case No.333 of 2014, which is



the subject matter of the present case.

6. Learned Senior counsel for the petitioner further submits that *vide* order dated 21.09.2015 passed in B.L.T Case No.333 of 2014, the order passed by the Hon'ble Minister in Miscellaneous Case No.1/2012-13 has been set aside and the matter was remanded back to the Collector. The Collector in compliance of order passed by the B.L.T in B.L.T Case No.333 of 2014 dated 21.09.2015 remanded the case to the Additional Collector to ensure the initiation of proceeding in accordance with law, which is absolutely vague and cryptic. Senior counsel submits that the order passed in the year 1997, by this Hon'ble Court dated 28.01.1997 passed in C.W.J.C No. 1071 of 1986 & C.W.J.C. No.3578 of 1994 decided by common order has not been opted to be complied by the respondent authorities themselves, then there is nothing left in the ceiling proceeding and the matter be treated to be dropped as under the law, it cannot be re-opened at this juncture after such a long period.

7. Learned Senior Counsel for the State, on the other hand, submits that the legislature exercised due caution while amending the Ceiling Law. By the 2016 amendment, Section 45(B) of the Act of 1961 was deleted, and in its place, a new provision Section 30 was inserted. Referring to Section



30(4) of the Act, Senior Counsel contends that the Collector has been vested with the power to reopen cases as and when circumstances so require. He further submits that despite the order passed by this Hon'ble Court in the writ petition in the year 1997, the petitioner failed to take any steps to ensure its compliance. After such a long lapse of time, the petitioner now argues that the State ought to comply with the 1997 order and expresses readiness to implement the same. However, learned Senior Counsel argues that since the 1997 order passed by the Hon'ble Single Judge was never challenged before any higher forum, it has attained finality, and consequently, there remains no occasion for the State except to drop the proceeding. He further submits that it was the petitioner who had earlier approached the Writ Court and now alleges non-compliance of the said order, which could have been a subject matter of contempt proceedings. However, the petitioner never invoked contempt jurisdiction within the prescribed limitation period of one year.

8. Learned Sr. Counsel for the State further submits that the legal position before and after the 2016 amendment has changed significantly. In the present writ petition, the only question that arises for consideration is “whether the State is



empowered under Section 30 of the Act of 1961 to revisit or reopen the earlier proceedings.”

9. Senior Counsel asserts that a statute which creates rights in favour of an individual cannot leave such rights without a remedy. With the deletion of Section 45(B), Section 30 now serves as the operative provision that enables the affected parties to seek recourse under the Ceiling Law.

10. After hearing the parties and upon going through the records, it would be apposite to quote Section 30 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 which states as follows:-

*“30. Appeals.-(1) (a) An appeal shall lie from any final order passed by any officer vested with the power of the Collector under this Act other than the Collector of the district to the Collector of the district or any other officer specially authorised in this behalf by the State Government within thirty days, of such an order.*

*(b) An appeal shall lie from any final order passed by the Collector of the district to the Commissioner of the Division within thirty days of such an order:*

*Provided that no appeal shall lie against orders passed under Section 5 and Section 29 before the final publication of the draft*



*statement under sub-section (1) of Section 11:*

*Provided further that appeal against orders passed under Section 5 and Section 29 shall be filed within thirty days from the date of final publication under sub-section (1) of Section 11.*

*(2) An appeal under this Section shall be heard and disposed of in the prescribed manner.*

*(3) An appeal shall be disposed of within the period of six months:"*

*Provided that if for any reason it is not disposed of within the period of six months, the reasons shall be recorded in writing by the Appellate Authority.*

*(4) (i) The Collector of a district may initiate a fresh proceeding under the Act if, upon his own knowledge or information, he is satisfied that a land holder, in a proceeding under the Act, by fraudulently or by misrepresentation of facts or law, has managed to obtain an order from any of his subordinate authority with a view to defeat the objects of the Act or any provision there of and retains land in excess of the ceiling area.*

*(ii) The Commissioner of a division shall exercise the similar power & authority as the collector of a district where a land*



*holder has obtained similar order from the Collector of a district falling within his Jurisdiction under similar circumstances:*

*Provided that before initiating such proceeding under the Act, the Collector of a district or the Commissioner of a division, as the case may be, shall issue a notice to the land holder to show cause as to why land ceiling proceeding may not be initiated on the ground mentioned in the notice:*

*Provided further that no such proceedings shall be initiated in the cases decided by Board of Revenue or other Higher Courts.”*

11. Upon a careful reading of Section 30 of the Act of 1961, particularly section 30(4), it transpires to this Court that the legislature has empowered the Collector as well as to the Commissioner to take action under the provisions of the Ceiling Law. The impugned order passed by the Collector merely directs the Additional Collector to proceed in accordance with law nothing more, nothing less. However, in the prayer portion of the present writ petition, learned Senior Counsel for the petitioner has stated that the Land Ceiling Case No. 25 of 1973–74 has been remanded to the Additional Collector for initiating proceedings in accordance with law. This does not reflect the actual observation of the Collector. The only direction given was



to "proceed in accordance with law".

12. In the opinion of the Court, the word segment used ‘in accordance with law’ carries a dual connotation. It may imply either to proceed further with the matter or to stop the matter. However, unless a specific order is passed by the Collector of the district, the matter cannot be reopened at this stage.

13. Therefore, this Court is of the firm view that the present writ petition is pre-mature and warrants no interference. Accordingly, the present writ petition stands dismissed. The Collector is at liberty to pass a fresh order regarding the ceiling matter in accordance with law under Section 30(4) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, with specific direction to initiate fresh proceeding under the act, even after end of section 45(B) of the Act of 1961.

**(Dr. Anshuman, J)**

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