

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 13568 of 2015**

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Smt. Urmila Devi wife of Shri Jogendra Prasad Bhagat, resident of village-  
Chandpur, P.S.- Kadwa, District- Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar through the Collector, Katihar
2. Collector, Katihar
3. Additional Collector Ceiling, Katihar
4. Deputy Collector, Land Reforms, Katihar
5. Anchal Adhikari, Kadwa Anchal, District- Katihar

.....Respondents

6. Jagdish Paswan Son of Late Rajendra Paswan Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
7. Most. Chandri Devi Wife of Late Suggan Mandal, Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
8. Dilip Manjhi Son of Late Dalu Manjhi, Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
9. Subodh Rajak Son of Late Jabun Rajak, Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
10. Anuj Paswan Son of late Chanchal Paswan Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
11. Yugal Paswan Son of Late Chanchal Paswan Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
12. Tilai Mandal Grand Son of Late Khikhru Mandal, Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
13. Shambhu Mandal Son of Late Khikhru Mandal Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
14. Most. Bugali Devi Wife of Late Lakhichand Mandal, Son of Late Khikhru Mandal, Resident of Village - Khempur, P.O. - Sagrath Via - Durgaganj, Police Station Kadwa, District- Katihar.
15. Tallu Marandi Son of Late Jetha Marandi Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.
16. Hanju Marandi Son of Late Jetha Marandi Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.
17. Pankaj Marandi Son of Late Jetha Marandi, Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.
18. Tallu Hembram Son of late Mausai Hembram Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.



19. Hanju Hembram Son of Late Musai Hembram, Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.
20. Vijay Hembram Son of Late Musai Hembram Resident of Village - Rautai, P.O. - Chandpur, Via - Durgaganj, P.S. - Kadwa, District- Katihar.
- ... ..Intervenors/Respondents

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**Appearance :**

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| For the Petitioner/s | : | Mr.Sanjeev Kumar Mishra, Sr.Advocate |
|                      | : | Mr. Mohit Agarwal, Advocate          |
|                      | : | Ms.Veena Kumari Jaiswal, Advocate    |
| For the Intervenor   | : | Mr.Jibendra Mishra, Advocate         |
| For the State        | : | Mr.Manoj Kumar Sinha, A.C. to G.A.-9 |

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL JUDGMENT**

**Date : 27-03-2025**

Heard Mr.Sanjeev Kumar Mishra, learned senior counsel appearing for the petitioner, Mr.Jibendra Mishra, learned counsel for the intervenor/respondents and Mr.Manoj Kumar Sinha, learned A.C. to G.A.-9.

2. I.A.No. 02 of 2023 has been filed on behalf of the Intervenors/respondents for impleading them as Party Respondents in the present writ petition on the ground that they are the Red Card Holders of land in question and they are the necessary parties in the present proceeding.

3. In view of the averments made in the I.A.No. 02 of 2023, I.A.No. 02 of 2023 is allowed and intervenors/Respondent Nos. 1 to 15 are impleaded as party intervenors/Respondents in the present writ application.

4. The petitioner has filed the present writ application for directing the respondents for restraining them from taking



forceful possession of an area equivalent to 7.25 acres of land belonging to the petitioner for distribution of the same amongst red card holders as well as for quashing the order dated 18.07.2014 (Annexure-1) passed by respondent No.3 in Miscellaneous (Land Ceiling) Case No. 358/88-89 by which it has been directed to the respondent No.3 to take equivalent to an area of 7.25 acres of land from the land of the original land holder after demarcation of land from the land which were allowed to retain under her unit and for quashing of the notice contained in Memo No 58 dated 02.03.2015 (Annexure-2) issued by respondent No.3 in the name of the petitioner whereby the petitioner has been directed that vide an order passed in Miscellaneous (Land ceiling) Case No. 358/1988-89 an area of 7.25 acres of land has been exempted from Acquisition, hence equivalent to an area of 7.25 acres of land may be given by her to the respondents from her own ceiling Unit for distribution of the land amongst the red card holders.

5. Learned counsel for the petitioner submits that the Land Ceiling Proceeding No.72/1973-74 was initiated against one late Daya Rani Bhagtain and the petitioner was substituted in place of late Daya Rani Bhagtain as her legal heir and successor of the properties in question. The aforesaid Ceiling Proceeding was subject matter of an area 124 acres which were declared surplus



after deducting the land which were already sold by the land owner prior to 09.09.1970.

6. Learned counsel for the petitioner submits that in the year 1962, the landlady (Late Daya Rani Bhagtain) had sold an area of 7.25 acres of land to Shri Om Prakash Bhagat and others came in physical possession of the land since then. A proceeding was initiated as Miscellaneous Land Ceiling Case No.358/1988-89 at the instance of Shri Om Prakash Bhagat and others whereby said Om Prakash Bhagat claimed for exemption of an area of 7.25 acres of land from the acquisition which was purchased by them and the matter remained pending since then.

7. Learned counsel for the petitioner submits that during pendency of the aforesaid Miscellaneous Land Ceiling Case No.358/1988-89 a report was submitted by respondent No.5 dated 27.03.1991 whereby it was submitted that the land in question was purchased by Shri Bhola Nath Bhagat from Smt. Daya Rani Bhagtian vide Registered Sale Deed No. 11817/62 dated 11.09.1962. It is pertinent to mention here that the respondent No.3 vide order dated 17.09.1991/01.11.1991 had recommended for release of the aforesaid 7.25 acres of land from the acquisition process and it was also held that the land acquired was not distributed amongst the red card holders vide order dated



01.11.1991. Apart from that, the respondent No.3 has passed the order dated 12.01.1993 recommended for release of the aforesaid land from acquisition and also forwarded the same to the collector, Katihar for his approval. It appears that the transfer of 7.25 acres of land was made by late Daya Rani Bhagtain in the year 1962 much prior to 1970 and the said sale was considered as valid and accordingly those lands which were sold were deducted from the total area belonging to late Daya Rani Bhagtain treating the said as valid transfer and thereafter one unit was allowed to be retained by the petitioner in the proceeding which was initiated against Daya Rani Bhagtain being Land Ceiling Case No. 72/73-74.

8. Learned counsel for the petitioner submits that from a bare perusal of Annexure-1 and Annexure-2 of the writ petition it appears that the respondent No.3 without having any legal right under the Act directed the petitioner to provide 7.25 acres of land from her own area which was allowed to be retained in one Ceiling Unit for distribution of the same amongst the red card holders forgetting. The action of the respondents is arbitrary and malafide directing the petitioner to hand over 7.25 acres of land from her own ceiling unit which was allowed to be retained by the petitioner 50-60 years ago.



9. The learned counsel for the State has filed a counter affidavit personally sworn by the D.C.L.R., Barsoi, Katihar stating therein that the Land Ceiling Proceeding bearing No.72/73-74 (State v/s Dayarani Bhagtain) had been initiated. The surplus land had been acquired u/s 15 (1) of Ceiling Act adopting all the required procedures. The writ petitioner is the legal heir of the said landholder namely Dayarani Bhagtain who is now dead. The said Dayarani Bhagtain ought to have filed an objection petition u/s 10(3) of the Ceiling Act stating therein that she had already sold the land in question covering area 7.25 Acre before 09.09.1970. She had to prove that the sale deed executed by her, was genuine and the same was not FARZI. But she failed and the said land was acquired by the Government for which only she was responsible. The acquired land was settled to landless persons u/s 27 of Ceiling Act. 6. One Om Prakash Bhagat and another Jai Prakash Bhagat sons (both of purchaser filed a Misc. namely Bhola Nath Bhagat) Ceiling Case bearing No. 358/88-89 praying therein to exempt the aforesaid acquired land measuring area 7.25 Acre stating therein that the relevant sale deed had been executed before 09.09.70. The then Collector had passed an order on 18.05.93 stating to denotify the said land only after making available of other equivalent Land for settlement to the previously settled landless persons. The said



Om Prakash Bhagat and Jai Prakash Bhagat filed CWJC No. 15747 of 2010. Similarly the Red Card holder filed No.14325 of 2010. Both writ petitions were heard by the Hon'ble High Court Patna together and an order dated 09.12.2010 was passed with a direction to the Addl. Collector, Ceiling to hear the parties on other points before passing an order for denotification. The said order was complied and the parties were heard and a proposal for denotification was submitted before the Collector who himself heard the parties. Since no other land was available for distribution, the original landholder (this writ petitioner) was directed to give land equivalent to 7.25 Acre from her unit. It will not be out of place to be mentioned that for acquisition of the said land, only the original landholder is responsible which has already been made. It is made clear that the required papers for settlement are ready but have not been executed till now which suggests that the petitioner has not made available the equivalent to 7.25 acres of land from unit of the petitioner which suggests that the writ petitioner has not come with clean hands and petitioner has concealed the material facts of the present matter.

10. Mr. Jibendra Mishra, learned counsel for the intervenors/respondents submits that the petitioner has not come with clean hands he stated that the Land Settlement Parwana have



to be issued in their favour Vide Notification No. 94/2021 dated 28/8/2021 with regard to the lands in question. In fact the lands in question is acquired by the Katihar District Gazette No. 19/2021-22 dated 02/9/2021 Vide Notification No. 94/2021 dated 28/8/2021 of Khata No. 20 Plot No. 70 and 71 and of Khata No. 40, Plot Nos. 81, 82, 83, 84, 87, 88 and of Khata No. 9 Plot Nos. 89, 91 and 92 total measuring an area of 7.25 Acres of Mauza Ufrail and Khempur respectively situated at Anchal Kadwa in the district of Katihar for the purpose of distribution of the same among the above said landless persons.

11. Learned counsel for the Intervenors/respondents submits that earlier the Surplus lands of Land Ceiling Case No 72/73-74 (The State of Bihar Versus Dayarani Bhagtain) was settled which was acquired Vide Gazette Notification No. 52 dated 16/1/1988 but subsequently the same was denotified by the order dated 18/5/1993 and 18/7/2014 respectively passed by respondent No.2 in Land Ceiling Misc. Case No. 358/88-89 as well as the order dated 24/7/2018 passed by the Hon'ble High Court in C.W.JC No. 20089 of 2016 (Om Prakash Bhagat and Another Versus The State of Bihar and others).

12. Learned counsel for the Intervenors/respondents submits that it is an admitted fact that the intervenors as well as the



ancestors of the same of the intervenors were settled with the lands through to Red Cards vide Land Distribution Case No. 10/1987-88 and the aforesaid lands were acquired through Katihar District Gazette Notification No.52 dated 16.01.1988 in the land Ceiling Case No.72/1973-74 and the intervenors/respondents came in actual physical possession over their respective settled lands Jamabandi were also created in their favour and they used to pay the rent to the State of Bihar after receiving the rent receipt thereof. The land in question originally belong to to Daya Rani Bhagtain wife of Late Dukhi Ram Bhagat who was a big land holder holding lands in different villages of different districts and a Land Ceiling Case No.72/1973-74 was initiated against her in the district of Katihar. The said Daya Rani Bhagtain had no male issue and she gifted away most of her lands to her daughter (petitioner) and also executed will in favour of the sons of petitioner. The said Daya Rani Bhagtain died on 30/1/1985 and the petitioner, the legal representative was substituted in her place. A total Area of 244.90 ¼ Acres of land was declared Surplus and acquired in the Land Ceiling Case No. 72/73-74 and under Section 15 (1) of the Act published in the Katihar District Gazette issue No. 52 dated 16/1/1988 in the name of the petitioner and the said surplus land was distributed amongst the landless persons Vide



Distribution Case No.10/1987-88 by the respondent No.5 on 17.03.1988 and the lands were settled to the present intervenors and their ancestors through Red Cards. The details of the settlement of lands in question with the names of Settlees/Intervenors are as follows:

| <u>Mauza</u> | <u>Khata</u> | <u>Plot</u> | <u>Area (Acre)</u> | <u>Names of Settles</u>    |
|--------------|--------------|-------------|--------------------|----------------------------|
| Khempur      | 37           | 210         | 1.07               | Khikhru Mandal             |
|              | 51           | 347         | <u>0.25</u>        |                            |
|              |              |             | 1.32               |                            |
| -----        | 39           | 02          | 0.42               | Dilip Manjhi               |
|              |              | 208         | 0.14               |                            |
|              |              | 209         | <u>0.50</u>        |                            |
|              |              |             | 1.06               |                            |
| -----        | 39           | 131         | 0.82               | Musai Hembream             |
| -----        | 40           | 160         | 0.09               | Subodh Rajak               |
|              |              | 170         | 0.52               |                            |
|              |              | 171         | 0.24               |                            |
|              |              | 172         | <u>0.15</u>        |                            |
|              |              |             | 1.00               |                            |
|              | 40           | 172         | 0.32               | Jetha Marandi              |
|              |              | 173         | <u>0.48</u>        |                            |
|              |              |             | 0.80               |                            |
| -----        | 42           | 130         | 0.78               | Anuj Paswan @ Arjun Paswan |
|              |              | 142         | <u>0.15</u>        |                            |
|              |              |             | 0.93               |                            |
| -----        | 42           | 63          | 0.14               | Yugal Paswan               |
|              |              | 125         | 0.20               |                            |
|              |              | 126         | 0.27               |                            |
|              |              | 135         | <u>0.43</u>        |                            |
|              |              |             | 1.03               |                            |
| -----        | 44           | 134         | 1.08               | Jagdish Paswan             |
| -----        | 42           | 123         | 0.19               | Sugan Mandal               |
|              |              | 124         | <u>0.28</u>        |                            |
|              |              |             | 0.47               |                            |

13. Accordingly, the settlees came into possession over their settled lands and their names were also mutated in the serista



of Bihar Sarkar accordingly the rent of the lands was also being paid by the settlees after receiving the rent receipt thereupon and they have been continuous possession over their settled lands.

14. Learned counsel for the intervenors/respondents submits that a Miscellaneous Land Ceiling Case No.358/1988-89 was initiated by the Collector, Katihar at the instance of one Shri Om Prakash Bhagat and another for reopening of the Original Land Ceiling Case No.72/73-74 under Section 45(B) of the Ceiling Act wherein they have claimed for exemption of an area of 7.25 acres from acquisition process which their father Bhola Nath Bhagat had purchased from Late Dayarani Bhagtain by a registered sale deed dated 11.06.1962 and thereafter it was sold to said Om Prakash Bhagat and others in 1965 Vide order dated 18/5/1993 passed by the respondent No.2 in Misc. Ceiling Case No. 358/1988-89 the Original Land Ceiling Case No. 72/73-74 was reopened for the purpose of exclusion of 7.25 acres of land which included the above said lands, which were already settled with the above said Settlees/Intervenors. By the said order the respondent No.2 also directed to the respondent No.3 that equivalent area of land be arranged first for the settlees before cancellation of their red cards. In the said Miscellaneous Land Ceiling Case No.358/1988-89 none of the Settlees were noticed



nor any opportunity of hearing was afforded to them before the order of reopening of the said Ceiling Case No.72/73-74 apart from that there had not been any denotification regarding the lands distributed among the above said Red Card holders with regard to the Land Ceiling Case No. 72/1973-74. Therefore there was no question of cancellation of settlement in favour of the Red Card holders and in the other hand the respondent No.5 in his report dated 23/1/1993 to the respondent No.3 categorically stated that the lands have already been settled to the landless persons and the Jamabandi were also created in their favour.

15. Learned counsel for the intervenors/respondents submits that being aggrieved by the above said notice dated 28.04.2009 issued to the Red Card holders for cancellation of their Settlement Parwana they moved before this Hon'ble Court in CWJC No.14325 of 2010 for cancellation of said notification against them. On the other hand the said Om Prakash Bhagat, purchasers have also moved before this Hon'ble Court in CWJC No.15747 of 2010 challenging the order dated 07.05.2010 passed by respondent No.2 in Land Ceiling Case No.72/73-74 by which the denotification of the lands purchased by them was not allowed on the ground that the same shall be done after reissuance of Purchas in favour of the original settlees on the lands in question.



Both the above said writ petitions were heard together and disposed of by common order 09.12.2010, the Hon'ble High Court has categorically directed to the respondent No. 3 that while he will consider the case the Writ petitioners of CWJC No. 15747/2010, he shall afford the opportunity of hearing to the Writ petitioners of CWJC No. 1432 of 2010, the Red Card holders and apart from that, the Hon'ble Court has been pleased to quash and set aside the impugned notice dated 24/8/2009 by the respondent No.5 for cancellation of the Settlement Parwana of the Red Card holders (the present intervenors).

16. Learned counsel for the intervenors/respondents as well as learned counsel for the State submit that it is well known to one come into equity who must come with clean hands. The Hon'ble Supreme Court in the case of **K.D. Sharma Vs. Still Authority of India Limited & Others.**, reported in **2008 (12) SCC 481** has held that the person approaching the Writ Court Under Articles 32 or 226 of the Constitution of India must come with clean hands put forth all the facts before this Court without concealing/suppressing anything. In absence of the candid disclosure of the relevant material facts and in case where the petitioner is found to be guilty or misleading the Court, his petition can be dismissed at the threshold without considering the merits of



the case and from a bare perusal of the interlocutory application filed on behalf of the intervenors/respondents which suggests that the petitioner has concealed the material facts as mentioned in I.A.No.02 of 2023.

17. Having heard the learned counsel for the parties, perused the material available on the record and considering the conduct of the petitioner of concealing the material facts before this Court, in my opinion, this writ application deserves to be dismissed.

18. I do not find any merit in this writ application, it is, accordingly, dismissed.

**(Rajesh Kumar Verma, J)**

Nitesh/-

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