

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.84 of 2024

In
Civil Writ Jurisdiction Case No.10409 of 1992

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- 1.1. Sanjeeb Kumar, aged about 60 years, son of late Naresh Mohan Mishra, resident of B503, Railway Officers Enclave, New Motibagh, Behind Leela Hotel, P.O. Chanakya Puri, P.S. Sarojni Bagar, New Delhi, 110021.
 - 1.2. Mihir Kumar, aged about 57years (Male), son of Late Naresh Mohan Mishra, resident of Mohalla Flat No. 105, Tower, Ganga 3, Sector D6, Vasant Kunj, P.S. Vasant Kunj, South West Delhi, 110070.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Patna, Bihar.
2. The Additional Collector, Khagaria.
3. The Collector, Khagaria.
4. The Member, Board of Revenue, Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Kishore Verma, Advocate Mr. Vijay Shankar Tiwari, Advocate Mr. Ravi Raj, Advocate Mr. Simran Kumari, Advocate
For the Opposite Party/s	:	Mr. Md. Khurshid Alam, AAG 12

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

7 15-05-2026 Heard Mr. Jitendra Kishore Verma, learned counsel

for the petitioners and Mr. Khurshid Alam, learned AAG 12 for

the State.

2. This review application has been filed for review of

the order dated 12.03.2015 passed in CWJC No.10409 of 1992

by a co-ordinate Bench of this Court.

3. With consent of both the sides, this review

application is being disposed of at the admission stage itself.



4. Learned counsel for the petitioners submits that CWJC No.10409 of 1992 was filed challenging three order i.e., order dated 11.3.1991 passed in Land Ceiling Case No.38 (Kha) of 1981-82 passed by the Collector, Khagaria, (Respondent No.3); the appellate order dated 24.07.1992 passed in Land Ceiling Appeal No.06 of 1991-92 by the Respondent No.3 and the revisional order dated 26.09.1992 passed in Land Ceiling Revision No.157 of 1992 by the Respondent No.4.

5. Learned counsel further submits that following relief(s) was sought in the writ application:

- “a) *Whether the impugned order can be sustained in law and on facts?*
- b) *Whether the authorities could have relied upon the enquiry report of the Magistrate when the same was not made presence of the petitioner?*
- c) *Whether the authorities ought to have considered the effect of other documents like Horoscope, affidavit and report of Medical Board?*
- d) *Whether lands which are subject matter of deed of gift dated 16.02.1963 executed in favour of wife of the petitioner could have been tagged along with the lands of this petitioner especially when 20 acres of land have been transferred?*
- e) *Whether lands belonging to other persons could have been clubbed with those of this petitioner?*
- f) *Whether the report of Circle Officer regarding possession can be held to be a statutory right?”*



6. It is further submitted by learned counsel for the petitioners that C.W.J.C. No. 10409 of 1992 was disposed of by a co-ordinate Bench of this Court vide order dated 12.03.2015 and following order was passed:

"In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to file an appropriate application before the State Government under Section 45B of the Land Ceiling Act for re-opening for the Land Ceiling Case No. 38(kha) of 1981-82 initiated and concluded against the land holder- Naresh Mohan Mishra. If such a petition is filed on behalf of the petitioner, after impleading all the necessary parties within a period of six weeks from today with a certified copy of the present order, then the State Government shall be obliged to consider and decide his claims in accordance with law by a reasoned and speaking order, after giving opportunity of hearing to all concerned.

Since the matter has become very old, it is expected that the petition filed on behalf of the petitioner under Section 45B of the Land Ceiling Act shall be decided expeditiously in accordance with law, preferably within a maximum period of nine months from the date of filing of the application by the petitioner."



7. Learned counsel for the petitioners submits that at the time of passing of the order dated 12.03.2015, the alternative remedy was available under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter to be referred as " The Ceiling Act"). Accordingly, the petitioner moved an application under Section 45B of The Ceiling Act before State Government for reopening of Land Ceiling Case No. 38(Kha) of 1981-82 which was registered as Case No. 03 of 2015 and during the pendency of the said case, the provision of Section 45B of the Land Ceiling Act was deleted by the amendment in the Land Ceiling Act and the provision of Section 45D of The Ceiling Act was inserted and it was provided that pending proceeding under Section 45B stands abated in view of Section 45D of The Ceiling Act. It is further submitted that the validity of the said amendment was under challenged before the Hon'ble High Court in various writ petitions which came to be decided finally by order dated 13.10.2023 passed by the Division Bench in batch of cases bearing C.W.J.C. No. 15060 of 2019 whereby the validity of the amendment was upheld by the aforesaid order dated 13.10.2023. It is further submitted that pursuant to affirmance of validity of Section 45D of the Ceiling Act and



subsequent changes in law has rendered the petitioners remediless and, therefore, the present review application has been filed to review the order dated 12.03.2015 passed in C.W.J.C. No. 10409 of 1992. Learned counsel further submits that during the ceiling proceeding, the petitioner was not given any opportunity to select lands of his choice as provided under Section 9 of The Ceiling Act.

8. During the course of hearing, learned counsel for the petitioners has confined his relief only with regard to his choice of 10 Bighas 1 Katha 18 Dhurs lands, details of which has been mentioned in paragraph no. 24 of the review application. It is submitted that the petitioners have not been given opportunity to select the lands of his choice and, thus, have been deprived of their statutory rights under Section 9 of The Ceiling Act, which amounts to violation of the principal of natural justice. If the petitioner had been given an opportunity to select his lands under Section 9 of the Act, he would have preferred and selected the similar area of his choice which is mentioned in paragraph no.24 of the review application situated at village Katghara and Shirniyan; total 10 Bighas 1 Katha 18 Dhurs lands and, accordingly, prayed for issuance of a fresh notification with reference to his choice. It is further submitted



that option was not given to the petitioners to opt the lands of their choice and therefore, the lands as mentioned in paragraph no.24 of the review application be exchanged from his allotted lands out of the surplus lands.

9. On the other hand, Mr. Md. Khurshid Alam, AAG 12, appearing on behalf of the State has no objection to the prayer. He submits that if the petitioner confines his prayer only for exchange of 10 Bighas 1 Katha 18 Dhurs of the lands as mentioned in paragraph no.24 of the review application, the State-respondents have no objection in it.

10. Having regard to the aforesaid, this review application is allowed. The State- respondents, particularly, respondent no. 3 (the Additional Collector, Khagaria) is directed to issue a fresh notification with regard to surplus lands of the petitioners by exchanging the land already allotted to the petitioners from the lands mentioned in paragraph no.24 of the review application.

11. This review application is, accordingly, allowed.

12. Pending interlocutory applications, if any, shall stand disposed of.

(Khatim Reza, J)

J. Alam/-

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