

(1997) 02 PAT CK 0063
In the Patna High Court
Case No : C.W.J.C. No. 535 of 1997

Arun Kumar @ Arun Kumar Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-02-1997

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 45B, 9(2)

Citation : (1997) 1 BLJR 790 : (1997) 1 PLJR 657

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Judgement

Aftab Alam , J.—Heard learned Counsel for the petitioner and Mr. B.P. Verma, SC (Ceiling) with their consent this application is being disposed of at the stage of admission.

2. The petitioner has approached this Court with the all too familiar grievance that lands lawfully belonging to him were included in the land ceiling proceeding held against one Ramchandra Prasad, his vendor and were declared as surplus land in his hands. When the petitioner came to learn of this fact he filed an application u/s 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act before the Collector, Samastipur.

3. The Collector by order dated 15.11.1996 passed in Misc. Ceiling Case No. 16 of 1992-93/4 of 1994-95 rejected the petition and declined to reopen the proceeding. It is this order which comes under challenge in this writ petition.

4. The lands claimed by the petitioner, measuring to an area of 1 Bigha 19 Kathas 7 Dhurs are fully described in paragraph 3 of the writ petition. According to the petitioner he purchased the disputed lands from Ramchandra Prasad by a registered sale deed dated 5.1.1974.

5. From the impugned order it appears that on 10.6.1976 the land holder had filed his return in LC. Form No. II. In the land holder's return the disputed lands

were not included and hence he did not claim those lands as belonging to him. In the draft statement, however, those lands were included in the name of the land holder and while exercising his option u/s 9(2) of the Act he left those lands to be declared as surplus. The Collector has assigned the aforesaid reasons for refusing to reopen the proceeding.

6. having heard learned Counsel for the parties, I am of the opinion that the learned Collector has committed a patent error and has overlooked the fact that the land holder had exercised his option contrary to the provision of Section 9(2) of the Act and in a manner which best suited his own interests. Section 9(2) of the Act provides that any lands sold after 9.9.1970 should normally be given in the unit which the land holder is allowed to retain and therefore in terms of Section 9(2) the lands claimed by the petitioner should have formed part of the lands allowed to be retained with the land holder.

7. I, accordingly, set aside the impugned order dated 15.11.1996 and remit the matter back to the Collector to reconsider the petitioner's grievance after issuing notice to Respondent No. 4, the heir of the original land holder Ramchandra Prasad and, if need be, to any other concerned persons such as the Parcha holder (s) in respect of the disputed lands.

8. In order to facilitate an early disposal of the matter the petitioner is directed to appear before the Collector, Samastipur with a copy of this order by March 10, 1997. The Collector will issue notice (s) to the concerned parties as indicated in this order and will fix a firm date of hearing on which the parties will be heard. It is expected that the Collector will dispose of the petitioner's application within three months from the date of this appearance.

9. Till a final order is passed by the Collector in this matter, the petitioner shall not be dispossessed from the disputed lands.