

(2014) 01 PAT CK 0099
In the Patna High Court
Case No : CWJC No. 969 of 2013

Bindeshwari Rishideo and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-01-2014

Acts Referred:

Bihar Bhoodan Yagna Act, 1954 — Section 14, 14(1), 15, 21, 22

Citation : (2014) 2 PLJR 66

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Advocate : Ashok Kr. Sinha, S.K. Singh and Anupa Nand Jha, Advocate for the Appellant; Surendra Kr. Verma, Jai Vardhan, Narayan, Aishwarya Riti for the Bhoodan Yagna Committee, Mr. Prashant Kr. Choudhary for the State and Mr. Binod Kr. Yadav for the Gram Sabha, Advocate for the Respondent

Judgement

Navaniti Prasad Singh, J.—The 15 petitioners have filed this writ petition being aggrieved by Annexures-1 and 3 being letters issued by the Bihar Bhoodan Yagna Committee, Kadamkuan, Patna. They came to know of these letters only when the settlements, as made in their favour, were sought to be cancelled and those lands were sought to be transferred to the Gram Sabha under the Bihar Gramdan Act, 1965. Bhoodan Yagna Committee had been noticed and two counter affidavits have been filed which are on record. Gram Sabha, to whom lands are to be transferred, was also noticed. Learned counsel appearing states that he has filed a counter affidavit on behalf of the Ex-Chairman of the Gram Sabha. I am noticing it only to reject the counter affidavit as it is only the Chairman who could file the counter affidavit and not the Ex-Chairman. Be that as it may, the main contest is as to the right of the Bihar Bhoodan Yagna Committee's power to do what they purported to do. Facts are otherwise not in dispute. Heard the learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage itself.

2. It appears that landlord, having ceiling surplus land in Araria, agreed to

donate substantial lands to Bhoodan Yagna committee. Apparently about 178 acres of lands were donated to the Bhoodan Yagna Committee at Mauza-Basantpur in Araria Subdivision of District of Purnea. Consequent to this donation, the lands vested in the Bhoodan Yagna Committee. As per the Bihar Bhoodan Yagna Act, 1954, these 178 acres of lands were then settled in terms of Section 14 on amongst others, the petitioners. Accordingly, in terms of Section 14, they acquired the status of occupancy raiyat under the State Government and, accordingly, they were recorded as such in Register II and Jamabandis were opened in their names. By Annexures-1 and 3, as impugned, Bhoodan Yagna Committee suddenly wakes up and, almost 30 years after this settlement, writes to the district authorities and revenue authorities that as the settlers are not carrying on agricultural operations, their settlements be cancelled and the lands be transferred to the Gram Sabha under Bihar Gramdan Act, 1965. Pursuant to these letters, without notice to the petitioners, the DCLR, Araria cancelled the Jamabandis standing in the names of petitioners which consequential action is also under challenge. On behalf of Bhoodan Yagna Committee, their right to do so is being shown with reference to Sections 21 and 22 of the Bihar Bhoodan Yagna Act, 1954. I am afraid, the reliance is totally misplaced. In terms of Section 14 of the said Act, once settlement is made then the settlers become occupancy raiyat under the State as provided by Clause (iii) of the first proviso to Section 14(1) of the Act. Once that happens then Bhoodan Yagna Committee becomes functus officio and the settlers are then tenants as occupancy raiyat of the Government. Section 21 or 22 only authorizes that where any restriction has been imposed while making the grant u/s 15 of the Act and those restrictions or terms are violated then steps for cancellation of grant or resumption of grant would arise. Sections 21 and 22 do not at all apply to cases where settlement has been made u/s 14 for the simple reason that once settlement has been made u/s 14 by virtue of Clause (iii) of first proviso to Section 14(1), the settlee becomes an occupancy raiyat under the State Government denuding any control by the Bhoodan Yagna Committee thereafter. Thus, before the Bhoodan Yagna Committee issued the impugned orders for resumption of lands settled, it ought to have clarified that those directions were only in respect of grants made u/s 15 of the Act and it would have no application to Section 14 settlements.

3. In my view, Annexures-1 and 3 to the writ petition being orders and directives of the Bhoodan Yagna Committee, have to be restricted to grants made u/s 15 and not to settlements made u/s 14. Any settlement that has been made to landless people u/s 14 would be immune from cancellation, resumption or taken over by Bhoodan once settlement has been made. Thus seen, there being no dispute that these settlements, which were made with the petitioners, were in terms of Section 14 of the Act pursuant to which Jamabandis were created in their favour and they were entered as occupancy raiyats in Register-II as maintained by the State Government, they were thus not grantees u/s 15. If they were not grantees u/s 15, Bhoodan Yagna Committee did not invoke Section 21 or for that matter to cancel the settlement or resume the same or order its

transfer to Gram Sabha. All those actions that is cancellation of Jamabandis of the petitioners, transfer of land to Gram Sabha, Sarvodaya Sahyog Samiti are, thus, wholly without jurisdiction and are set aside. The writ application is, thus, allowed. The DCLR is directed to restore the Jamabandis of the petitioners and not to interfere with their right, title and interest except in accordance with law.