

(2003) 09 PAT CK 0059
In the Patna High Court
Case No : C.W.J.C. No. 10157 of 2003

Braj Kishore Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Constitution of India, 1950 — Article 243G

Citation : (2004) 1 PLJR 22

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Shashi Shekhar Dwivedi and Umesh Kumar Singh, for the Appellant;
S.K. Ghose, for the Respondent

Judgement

1. This is a very important matter, which relates to agrarian reforms. The petition, as a public interest litigation, informs the Court that despite the abolition of zamindari and the enactment, the Bihar Land Reforms Act, 1950, the land tenure system has not been systematically recorded and if any land records have been maintained it is under the Bihar Tenancy Act, 1885. It is also submitted that even the practice of keeping the land records between these two enactments has gone out of practice and confusion prevails.

2. Not to be ignored is the aspect on which this Court has already taken judicial notice on the halt of the consolidation operations despite the fact that State of Bihar had enacted the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956. The notification by which the consolidation has been halted was during the earlier part of nineties. Stopping consolidation did not improve matters. Instead, it set back agrarian reforms.

3. On the one hand, the State declares that it is computerising the land records. The question is what is the worth of computerisation of land records when still there are disputes at the ground level all over the State on land tenures. Not to be unnoticed and, perhaps, the State conveniently ignores reference to the amendments to the Constitution, as Chapter Panchayats read with the Eleventh

Schedule which refers to "land improvement, implementation of land reforms, land consolidation and soil conservation", Item No. 2 under Eleventh Schedule (Article 243-G).

4. Not pushing land reforms leads to frustration and anarchy and encouraging feudalism to linger. Bihar was the first State to abolish zamindari, but the Bihar Land Reforms Act, 1950 rusts. The agrarian revolution never came. In another variation the zamindar is around. The next upheaval the State will not be able to contain.

5. Thus, in a matter like this this matter cannot be decided by filing a counter affidavit and reply to it by a rejoinder affidavit. It needs serious attention from the rightful quarters wherever agrarian reforms and land tenure engage the attention of the State administration. This matter is about peasants, their holdings whether the ownership or any other valid transfers. Long term unexplained records on land tenure can bring a turmoil in rural Bihar.

6. While notice issues on this petition, let a copy of this order be sent to the Chief Secretary, Government of Bihar, and the Court expects that in a matter like this, the Chief Secretary will show concern. The State administration will be well advised to look at the treatise on land tenures (Land Systems of British India by B.H. Baden-Powell, C.I.E.,). The area of Bihar is referred to under Bengal as the publication is of 1892.

7. The Court is not inclined to pass any ad interim order.

8. Put up next week on Tuesday under the same heading.