
(2011) 08 PAT CK 0003
In the Patna High Court
Case No : C.W.J.C. No. 6725 of 1989

Deo Nandan Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-08-2011

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 16(3)

Citation : (2012) 2 PLJR 857

Hon'ble Judges : S.K. Katriar, J; Ahsanuddin Amanullah, J

Bench : Division Bench

Advocate : Pushkar Nath Singh, for the Appellant; Bindhyachal Singh and Vipin Kumar Singh for the Respondent No. 5, for the Respondent

Final Decision : Dismissed

Judgement

Ahsanuddin Amanullah, J.—The present writ petition has been filed against the order passed in Revision by the Additional Member, Board of Revenue in Saran No. 1 of 1989 u/s 32 of the Ceiling Act. By the said revisional order the order of the Additional Collector, Saran in L.C. Case No. 139 of 1987 dated 2.11.1988 has been upheld. It would be relevant to state here that the appellate order was passed on the petition filed by the present writ petitioner, being aggrieved by the order of the Deputy Collector Land Reforms dated 29.4.1987 in Land Ceiling Case No. 71 of 1981-82 by which the petition filed u/s 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the "Act") has been allowed. The said application was for pre-emption with regard to an area of 131/2 Dhurs of lands of plot No. 932, appertaining to Khata No. 86 of Village-Hakam. The said plot has been bought by the present writ petitioner for a consideration of amount of Rs. 4,000/- through a sale deed registered on 20.11.1981. The private respondent who had filed application for pre-emption had moved the Court of the Deputy Collector Land Reforms at the first instance praying for pre-emptory right on the ground of him being an adjoining raiyat and the nature of the land being agricultural and thus

covered under the aforesaid Act. Upon hearing the parties, the Deputy Collector Land Reforms by his order dated 29.4.1987 allowed the application filed u/s 16(3) of the Act with a direction to the writ petitioner to reconvey the land through registered sale deed in favour of the private respondent. The said order which is a detailed one was passed after taking note of the report of the Pleader Commissioner, the Anchal Adhikari as well as the report of the Investigating Officer in the criminal case which all went to show that the land in question was used for agricultural purposes and there was no building either situated near the land or upon adjoining land. It was also mentioned in the order that from the sale deed in favour of the petitioner itself it was evident that the private respondent was an adjoining raiyat. Being aggrieved by the order, the writ petitioner moved in appeal before the Additional Collector who also by order dated 2.11.1988 dismissed the appeal and upheld the order dated 29.4.1987 by briefly noticing the fact that the private respondent was adjoining raiyat and though the land in question was a "Dih Basgit" land but the same was used only for agricultural purposes and agricultural equipments were found to prove this fact. The writ petitioner moved in revision and by order dated 12.4.1989 the revision application was also dismissed by the Additional Member, Board of Revenue. Being aggrieved by the three successive orders the present writ petition has been filed.

2. The challenge was basically on the ground that the character of the land ought to have been considered with reference to the categorization made in the revenue record even though they were old. However, it was also contended that the inspection done by the Pleader Commissioner was during pendency of the case and thus should not be taken into account while passing the order.

3. Upon hearing learned counsel for the parties and after considering the facts and circumstances of the case, we are in agreement with the orders passed by the three authorities under the Act. The contention of the writ petitioner that the report of the Pleader Commissioner should not be taken into account is not worthy of serious consideration for the simple reason that it was done within a short span of time from the case for pre-emption being filed and thus the same was worth reliance for the purpose of arriving at the exact nature of the land. The second contention of the writ petitioner that the original entry in the revenue record ought to be considered is also not tenable for the reason that such records are coming for quite a long period and it is not practically expected that the same would be a true reflection in the present time when there is already contrary findings of fact by three different authorities i.e. Pleader Commissioner, the Anchal Adhikari as well as the Investigating Officer in a police case with regard to the nature of land being agricultural. The courts and the authorities cannot shut their eyes to the ground reality and this is also the spirit of the Act.

4. For the reasons aforesaid, we find no merit in this writ petition and accordingly it is dismissed. However, in the facts and circumstances of the case there shall be no order as to costs.

S.K. Katriar, J.

I agree.