
(1997) 05 PAT CK 0048
In the Patna High Court
Case No : C.W.J.C. No. 6558 of 1992

Dhaneshwar Manjhi and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 20-05-1997

Acts Referred:

Bihar Privileged Persons Homestead Tenancy Rules, 1948 — Rule 5

Citation : (1998) 1 PLJR 54

Hon'ble Judges : A.K. Ganguly, J

Bench : Single Bench

Advocate : Ashutosh Jha, Sarangdhar Jha and Vijay Kant Mishra, for the Appellant; Veena Kumari Jaiswal, for State and Ashok Kumar Mishra, No. 2 for Respondent Nos. 3 and 4, for the Respondent

Final Decision : Allowed

Judgement

A.K. Ganguly, J.—Heard learned Counsel for the parties.

2. This writ petition has been filed for cancellation of Parcha dated 31.10.1983 passed by Respondent No. 2 in favour of private Respondent Nos. 3 and 4 in respect of the land of the Petitioners of Khata No. 432, Khesra Nos. 2176 and 2177 measuring an area of 2 Kathas 3 dhurs.

3. The Petitioner is impugning the said proceeding inter alia, on two grounds, namely, (i) in the impugned order granting Parcha, there is no mention that the private Respondents are privileged persons within the meaning of the Bihar Privileged Persons Homestead Tenancy Act (hereinafter referred to as the said Act) and (ii) there has been no enquiry by the Circle Inspector. The enquiry has admittedly been conducted by the Halka Karamchari on which the Circle Inspector has merely signed. This enquiry is not in accordance with Rule 5 of the Bihar Privileged Persons Homestead Tenancy Rules (hereinafter referred to as the said Rules). As such the impugned order dated 31.10.1983, a copy of which is at Annexure-1, cannot be sustained.

4. Learned Counsel for the private Respondents who is of course not in a position to controvert the aforesaid submission, submits that the impugned order at Annexure-1 may be quashed and the matter may be remanded for conducting fresh enquiry by the Circle Inspector.

5. In that view of the matter the impugned order at Annexure-1 is quashed and the matter is remanded for enquiry by the Circle Inspector, Pammour Block in the district of Saran, in accordance with the provisions of Rule 5 of the said Rules. Since this is an old matter, the Petitioners are given liberty to appear before the appropriate Circle Inspector with a copy of this order and the Circle Inspector will initiate the enquiry within a period of one month from the date of their appearance and conclude the same within a period of four months thereafter.

6. With the above observation/direction, this writ petition is allowed and the impugned order at Annexure-I of the writ petition is quashed. There will be no order as to cost.