
(1999) 07 PAT CK 0015
In the Patna High Court
Case No : C.W.J.C. No. 7003 of 1991

Ekbali Devi and Another

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Citation : (1999) 3 PLJR 527

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Siya Ram Shahi and Anil Kumar, for the Appellant; Dinu Kumar, Sanjay Kumar Singh for State, Y.V. Giri and M.N. Parbat for Respondents 5 to 9, for the Respondent

Final Decision : Allowed

Judgement

N. Pandey, J.—This writ petition has been filed for a direction to the Respondents No. 1 to 4 to cancel the red cards issued in favour of Respondents No. 10 to 14 with respect to 4.52 Acres of land of Khata No. 20, Plot No. 2(p), Mauza-Bakharia, Anchal-Majhowlia, District-West Champaran.

2. It appears that a ceiling proceeding bearing No. 8 of 1983-84 was started against late Padampat Singhania with respect to 267.49 Acres of land and ultimately by order dated 14.8.1984 the land holder was allowed four units comprising of 76.86 Acres and 190.61 Acres were declared surplus and the final publication was made on 10.11.1984.

3. The land holder after disposal of the proceeding, as stated above, got permission of the competent authority on 9.4.1985 for transfer of certain lands including the present one. Thereafter on 18.7.1986 Petitioner No. 1 purchased 3.02 Acres and on 19.7.1986 Petitioner No. 2 purchased 1.52 Acres of land, totalling 4.54 Acres, and got their names mutated in the revenue records.

4. It would be relevant to notice that plot No. 2(p) had total area of 38.18 Acres out of which the land holder was allowed to retain 22.17 Acres and 16.10 Acres

were declared surplus. Petitioners had purchased the lands out of the total area of 22.17 Acres, which the land holder was allowed to retain. But the Respondent authorities without any rhyme and reason distributed red cards to Respondents Nos. 10 to 14 with respect to the lands which the Petitioners had purchased instead of distributing red cards with respect to the lands which were declared surplus. It is further stated that the Petitioners having no alternative filed an application before the Additional Collector who directed the Deputy Collector, Land Reforms, and the Anchal Adhikari to examine and report. It appears on 6.7.1991 the Anchal Adhikari by his letter contained in Annexure-5 recommended before the Deputy Collector, Land Reforms that steps be taken for cancellation of Purcha. The Deputy Collector, Land Reforms, on receipt of the same also examined the matter and ultimately on 18th July, 1991 by the letter contained in Annexure-6 informed the Additional Collector that the red cards were wrongly distributed over the lands, which the Petitioners had purchased. According to him, it was mistake on the part of the concerned authority. Therefore, he requested the Additional Collector that the red card holders may be given some other land and the red cards distributed over the lands of the Petitioners be cancelled.

5. The grievance of the Petitioners is that inspite of such a recommendation of the authority no final order was passed by the Collector, hence the present writ application.

6. A counter affidavit has been filed on behalf of the State from which it appears that there is no denial about the final disposal of the ceiling case nor there is any denial that the land holder had after obtaining permission of the competent authority transferred these lands in favour of the Petitioners through registered sale deeds. But certainly unsuccessful attempt has been made to cover up the mistakes of the authorities on a plea that since the area of plot No. 2(p) was big, therefore, unless the sale deed was produced or something was brought on the record it would be difficult for the authority to ascertain which area was declared surplus. In my view, such attempt on behalf of the authorities must be deprecated. Because in the sale deed itself area which the Petitioners had purchased was clearly identified.

7. That apart, when the competent authorities on getting the matter enquired into have accepted their mistake and recommended for cancellation of Purcha, it was proper for the Collector to cancel the same.

8. I, therefore, direct the Collector to issue necessary notification for cancellation of the red cards forthwith, which were issued in favour of Respondents 10 to 14 with respect to the land measuring 4.54 Acres purchased by the Petitioners.

9. Learned Counsel for the Petitioners asserted that in view of the interim order of this Court, his clients are already in possession.

10. Therefore, it will not be necessary for me to issue any direction for handing over possession since they are already in possession. With the aforesaid

direction, this writ petition is allowed but in the facts and circumstances of the case, there shall be no order as to costs.