

(2015) 10 JH CK 0111
In the Jharkhand High Court
Case No : WP(C) No. 7114 of 2013

Hardeo Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-10-2015

Acts Referred:

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

Citation : (2015) 4 JLJR 431

Hon'ble Judges : S. Chandrashekhar, J.

Bench : Single Bench

Advocate : Delip Jerath, for the Appellant; A.K. Verma, for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—Aggrieved by order dated 4.10.2013 in L.C. Case No. 12 of 2012-13, the present writ petition has been filed. The learned counsel for the petitioner submits that, vide order dated 16.8.2013, a direction was issued to the Circle Officer to deliver possession of the land in question to the petitioner however, vide order dated 4.10.2013, the Deputy Collector Land Reforms, Dhanbad has reviewed his own order and recalled order dated 16.8.2013. It is contended that under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, the Deputy Collector Land Reforms has no power to recall his own order. It is further submitted that, on a misappreciation of facts, the interim order dated 16.8.2013 has been withdrawn. The learned counsel for the petitioner, on instruction, submits that, L.C. Case No. 12 of 2012-13 is still pending final adjudication.

2. The learned counsel for the respondent No. 4 opposes the prayer of the petitioner and submits that, earlier also the petitioner had approached this Court in W.P.(C) No. 4192 of 2013 and the said writ petition was withdrawn.

3. I find that the provision under Section 16(3)(i) of the Bihar Land Reforms

(Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 provides that a co-sharer or a raiyat of adjoining land or, any co-sharer of the transferor or any raiyat holding land adjoining the land transferred shall be entitled for transfer on making an application before the Collector in the prescribed manner. Section 16(3)(ii) of the Bihar Land Ceiling Act, 1961 mandates certain conditions on fulfillment of which, during pendency of the application under sub-section 3(ii) of Section 16 of the Act, possession of the land can be delivered to the co-sharer or an adjoining raiyat. It appears that on the application of the petitioner, interim order dated 16.8.2013 was passed. The contention that the Deputy Collector Land Reforms has no jurisdiction to recall his own order, is liable to be rejected. An authority which can grant interim order has inherent power, and jurisdiction to modify and/or recalling the said order. I find that against order passed by the Deputy Collector Land Reforms there is a provision of appeal under the Act. Considering the alternative remedy to the petitioner, without adjudicating the merits of the matter, the present writ petition is held not maintainable and accordingly, it is dismissed however, a liberty is reserved with the petitioner to challenge interim order dated 4.10.2013 by filing an appeal, within four weeks.