
(2008) 11 PAT CK 0083
In the Patna High Court
Case No : LPA No. 823 of 2008

Indu Prasad Singh @ Bindu Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 4(h)

Citation : (2009) 2 PLJR 962

Hon'ble Judges : R.M. Lodha, C.J.; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Diwakar Prasad Singh, for the Appellant;

Final Decision : Dismissed

Judgement

1. Section 4(h) of the Bihar Land Reforms Act, 1950 reads thus:- The Collector shall have power to make inquiries in respect of any transfer including the settlement or lease of any land comprised in such estate or tenure or the transfer of any kind of interest in any building used primarily as office or cutchery for the collection of rent of such estate or tenure or part thereof, 4[***] and if he is satisfied that such transfer was made 3[at any time after the first day of January, 1946, with the object of defeating any provisions of this Act or causing loss to the State or obtaining higher compensation there under the Collector may, after giving reasonable notice to the parties concerned to appear and be heard 4[***] annul such transfer, dispossess the person claiming under it and take possession of such property on such terms as may appear to the Collector to be fair equitable:}

5 [Provided that an appeal against an order of the Collector under this clause if preferred within sixty days of such order, shall lie to the prescribed authority not below the rank of the Collector of a district who shall dispose of the same according to the prescribed procedure:]

Provided further that no order annulling a transfer shall take effect not shall

possession be taken in pursuance of it unless such an order has been confirmed by the State Government.]

The aforesaid provision empowers the Collector to make an enquiry in respect of any transfer including the settlement or lease or any kind of interest to find out whether such transfer made at any time after the first day of January 1946 was intended to defeat the provision of the Act or causing loss to the State or obtaining higher compensation thereunder.

2. Before passing any order pursuant to the inquiry held u/s 4(h), the affected parties are required to be heard by the Collector. By the impugned notice, the petitioner has been called upon to show-cause u/s 4(h) of the Act. 1950 as to why transfer in his favour with regard to the subject land be not cancelled/annulled. The petitioner has full opportunity to putforth his cause and convince the Collector that the transfer/settlement in his favour does not suffer from any infirmity as provided in Section 4(h). Moreover, it is seen that any order of the Collector u/s 4(h) annulling the transfer is not given effect to nor the possession is taken in pursuance of such order unless such order is confirmed by the State Government. The order passed by the Collector is appealable to the prescribed authority.

3. Thus, if the petitioner is dissatisfied by the order of the Collector adverse to his interest, he has a right to challenge such order in appeal before the prescribed authority.

4. Dismissal of the writ petition, in the circumstances, by the Single Judge cannot be said to be unjustified. Letters patent appeal does not deserve to be admitted, it is dismissed in limine.