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**(1989) 03 PAT CK 0010**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 3471 of 1982**

Jagannath Yadav and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 29-03-1989

**Acts Referred:**

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 5, 9, 9(2)

**Citation :** (1989) PLJR 818

**Hon'ble Judges :** S.B. Sinha, J

**Bench :** Single Bench

**Advocate :** Dhruv Narain and Gopaljee, for the Appellant; Raghib Ahsan and Kameshwar Pd. Gupta, for the Respondent

**Final Decision :** Dismissed

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## Judgement

S.B. Sinha, J.—In this writ petition the petitioners prayed for issuance of an appropriate writ for quashing the orders dated 3.6.1982 and 6.7.1982 as contained in Annexures 2 and 3 respectively. The facts of the case lie in a very narrow compass.

2. The petitioners, allegedly are small farmers. They purchased some lands from respondent nos. 6 and 7 sometime in the years 1970-71, the details whereof have been stated in paragraph nos. 15 to 23 of the writ petition.

3. Mr. Dhruv Narain, the learned counsel appearing on behalf of the petitioners stated that the Collector under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act committed an illegality in so far as he did not make an enquiry with regard to the fact that the petitioners being purchasers of the land in question, the same could not have been declared as surplus land without giving an opportunity of being heard to them.

4. However, it is admitted that the purchases have been made after 9.9.1970.

5. By Act No. 55 of 1982, section 9 of the Bihar Land Reforms (Fixation of Ceiling

Area and Acquisition of Surplus Land) Act was amended. Section 9(2) of (he said Act reads as follows:--

Where the land by the landholder includes land transferred by him in" accordance with or in contravention of the provisions of clause (ii) of sub-section (1) of Section 5 , the land so transferred in accordance with or in contravention of clause (ii) of sub-section (1) of Section 5 shall to the extent of the ceiling area admissible to the land holder, be deemed to have been selected by him for retention within the ceiling area, and where the total area of such land is less than the ceiling area admissible to him, the land holders shall select the balance of ceiling area from his remaining land.

6. In view of the aforementioned provisions, as they stand now, as the lands purchased by the petitioners, if the same does not exceed the ceiling area would be deemed to have been opted for the land holder, in my opinion, the Collector should examine this case from this angle and pass necessary order in accordance with law. However, before passing such an order the Collector under the Act would satisfy itself that the petitioners themselves do not hold any land in excess of the ceiling area either individually or along with their family members in terms of the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act. With the aforementioned observations and directions this writ petition is disposed of.