

(1972) 05 PAT CK 0008

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 228 of 1969

Jagarnath Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-05-1972

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 4

Citation : AIR 1973 Patna 62

Hon'ble Judges : U.N. Sinha, C.J; Akbar Husain, J

Bench : Division Bench

Advocate : J.C. Sinha and J. Pandey, for the Appellant; Govt. Advocate and Janardan Prasad Singh, for the Respondent

Final Decision : Allowed

Judgement

1. This writ application has been filed under Arts. 226 and 227 of the Constitution of India, praying, that, the order passed by Shri K.K. Saran, Additional Commissioner of Patna Division, purporting to act u/s 4-A of the Bihar Land Reforms Act, 1950, in respect of plot No. 1339 of village Arjunpur, within police station Buxar, in the district of Shahabad be quashed.

2. The relevant facts are as follows. On 10th August 1967, the Land Reforms Deputy Collector. Buxar, passed an order stating it to be one in a proceeding u/s 4 (h) of the Bihar Land Reforms Act, which had commenced, at the instance of opposite party No. 5, of this Court, with respect to the disputed land, and the officer, held that, in view of the decision of Title Suit No. 90 of 1949, which had ultimately, come to this Court in Miscellaneous Appeal No. 64 of 1962, decided on 1st October. 1963, the revenue Court had no jurisdiction nor any materials to proceed with the case. The claim of respondent No. 5, who was the petitioner before the revenue Court, failed. Present respondent No. 5, thereafter, carried an appeal before the Collector of Shahabad and the appeal also failed. The appellate Court also took notice of the judgment of this Court mentioned above, stating that, the suit had been instituted in a representative capacity, but the plaintiffs

were unable to get a complete victory with respect to plot No. 1339. Copies of these two orders have been given as Annexures 4 and 5, In Annexure 1, the learned Additional Commissioner has also mentioned, that, the settlement of plot No. 1339 was upheld in the title suit, subject to certain customary rights of the public, which were recognised. Then, after stating some more facts, the learned Additional Commissioner stated in the impugned order that, the settlement was made after 1st January, 1946 but the patta had not been filed in the present proceeding and, in the circumstances, he was satisfied, that, it was a fit case for annulling the settlement of plot No. 1339, u/s 4 (h) of the Bihar Land Reforms Act The learned Additional Commissioner set aside the order of the Collector, to which reference has been made earlier.

3. Having heard learned counsel for the petitioner and learned counsel for the State of Bihar, we are satisfied that, the order of the learned Additional Commissioner is not in accordance with law and it must be set aside. Before a transfer, after the relevant date can be annulled, an inquiry has to be made, as to whether the transfer had been made, with the object of defeating any provisions of the Bihar Land Reforms Act, or causing loss to the State, or obtaining higher compensation thereunder. The learned Additional Commissioner has not directed his mind at all to any of these requirements. He has only stated, that, this was a fit case for annulling the settlement of plot No. 1339. Therefore, the order passed by the learned Additional Commissioner incorporated in Annexure 1, cannot be allowed to stand, and the case must be remitted to the learned Additional Commissioner for reconsideration of all materials on record, and for passing appropriate order u/s 4 (h) if he is of the view, that, the order of Collector of Shahabad was neither correct nor legal nor appropriate. The writ application is, therefore, allowed, and the case is remitted to the revisional Court, with the directions given above. In the circumstances of the case, there will be no order for costs.