
(2003) 07 PAT CK 0135
In the Patna High Court
Case No : C.W.J.C. No. 4461 of 2003

Jagdish Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-07-2003

Acts Referred:

Bihar Privileged Persons Homestead Tenancy Act, 1947 — Section 21

Citation : (2003) 3 PLJR 829

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Judgement

S.K. Katriar, J.—Heard Mr. Ratandeep Prasad for the Petitioner, learned JC to Govt. Pleader No. II for Respondent Nos. 1 to 3 and Mr. B.K. Majumdar, learned Sr. Advocate, for Respondent No. 4 (Shivji Rai). This writ petition is directed against the order dated 4.3.2003 (Annexure 3) passed by the learned Collector of Vaishali in Revision Case No. 44/01-02 (Shivji Rai v. Jagdish Rai), u/s 21 of the Bihar Privileged Persons Homestead Tenancy Act, 1947.

2. The present Petitioner had filed an application under the Act before the learned Anchal Adhikari, Bidupur (Vaishali), which was registered as Basgit Parcha case No. 17/3 of 9394/94-95, which was allowed by order dated 30.3.94 (Annexure 1) and basgit parcha for the lands in question was directed to be issued in favour of the Petitioner. Aggrieved by this order, Respondent No. 4 had preferred a revision application u/s 21 of the Act before the learned Collector of the district which was registered as Revision Case No. 44/01-02 (Shivji Rai v. Jagdish Rai) which has been allowed by the impugned order dt. 4.3.2003 (Annexure 3) whereby the revision application has been allowed and the order of the learned Anchal Adhikari has been set aside.

3. While assailing the validity of the impugned order, learned Counsel for the Petitioner submits that the learned Collector of the district has misread the provisions of Section 21 of the Act and has opposed the impugned order without defining his powers thereunder. In his submission, if the case of the Petitioner

before him finds favour, then the only option for him u/s 21 of the Act is to set aside the order of the learned Anchal Adhikari, re-open the proceeding and remit the matter back to the learned Anchal Adhikari for disposal afresh in accordance with the provisions of this Act. He further submits that instead of following this course of action mandated by law, he has allowed the revision application and had set aside the order of the learned Anchal Adhikari. He relies on the Division Bench judgment reported in 1977 PLJR 248 (Ganja Ram Bhagat v. Deputy Commissioner).

4. Learned Counsel for Respondent No. 4 has no objection if the matter is remitted back to the learned Anchal Adhikari.

5. On a perusal of the impugned order and consideration of the submissions of learned Counsel for the parties, I hereby remit the matter back to the learned Anchal Adhikari, Bidupur, Vaishali, in terms of Section 21 of the Act. who shall dispose of the Petitioner's application afresh in accordance with the provisions of the Act after affording a reasonable opportunity of hearing to both the sides. The order of the learned Anchal Adhikari has already been set aside. The writ petition is accordingly disposed of.