(2006) 05 PAT CK 0082

In the Patna High Court

Case No : CWJC No. 3134 of 2004

Kamal Singh APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 03-05-2006

Acts Referred:
Bihar Land Reforms Act, 1950 — Section 24(3)

Citation : (2006) 3 PLJR 157

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

Bench : Single Bench

Final Decision : Disposed Off

Judgement

S.K. Katriar, J.—Heard Mr. Chandra Shekhar Prasad Singh for the petitioner, and Mr. Kameshwar Prasad Gupta, learned Standing Counsel No. 5 for the respondents. The writ petition has been preferred for direction to the respondent authorities to make payment of perpetual annuity to the four Trusts created by the ancestors of the petitioner, and for certain ancillary reliefs. According to the writ petition, the petitioner''s estate, popularly known as Dumraon Raj, had vested in the State of Bihar in terms of the Bihar Land Reforms Act, 1950 (hereinafter to be referred to as ''the Act''). Dumraon Raj had created the following four Trusts:-

(i) Dumraon Raj Hospital Trust;

(ii) Dumraon Raj Temple Endowment Trust;

(iii) Dumraon Raj Veterinary Hospital Trust; and

(iv) Dumraon Raj Bikramganj Hospital Trust.

These Trusts were under the personal management and Shebaithship of the petitioner and were found so and adjudged and decided by the then Collector of the District Shahabad in Case No. 214 of 1955-56, Case No. 17/1955-56, Case No. 47/55-56, and Case No. 3/26 of 1955-56. It is thus obvious that these trusts had not vested in the State of Bihar and continued to be governed by the trust-deed(s) whereunder the same were created. Consequently, the respondent authorities had determined the annuity per annum on ad interim basis and the payments were made spasmodically. After the petitioner approached the respondent authorities in terms of Section 24(3) of the Act, the learned Collector of the undivided district of Shahabad determined the amount of perpetual annuity, but has not been fully implemented. The petitioner, therefore, prays for the following three reliefs:-

(i) The amount of perpetual annuity determined by the State Government by its order dated 8.1.1965 (Annexure-2 Series) may be implemented and the perpetual annuity for all the four trusts be paid with interest.

(ii) The Agricultural Income Tax Act 1948, has been repealed with effect from 1.3.1979. Therefore, the Agriculture Income Tax paid since 1.3.1979 may be refunded with interest.

(iii) In view of the inflation and the spiral of rising prices, the Trusts are finding it difficult to maintain the organisations. Therefore, the perpetual annuity may be enhanced.

2. The respondents have placed on record their counter affidavit.

3. I have perused the materials on record and considered the submissions of learned counsel for the parties. It appears to me that the State Government has found the four Trusts to be genuine and the deeds have been acted upon. Therefore, the initial exercise of assessing the amount of annuity per annum on ad interim basis was, after full consideration of the matter, converted into perpetual annuity separately assessed for each trust in terms of Section 24(3) of the Act. The limited materials placed before me indicate that the payments are being made spasmodically to the discomfiture of the trusts. The learned Collector of the District of Buxar within whose jurisdiction the four Trusts are situate, is hereby directed to ensure as follows:-

(i) The Government decision dated 8.1.1965 (Annexure-2 Series), determining the amount of perpetual annuity for the four Trusts, should always be paid without delay and without burdening this Court with most unwanted litigations. In view of the delay that has so far occurred in making the payments, the four Trusts shall be entitled to quantified interest of Rs. 20,000/ - (Twenty thousand) each for the delay in payments that have so far taken place. I am supported by a Division Bench judgment of this Court reported in Hari Nagar Sugar Mills Ltd. Vs. State of Bihar and Others, . Let the PRO. in terms of Rule 43 of the Bihar Land Reforms Rules, 1951, be issued within a period of four months from today.

(ii) The admitted position is that the Agricultural Income Tax Act, 1948, has been repealed with effect from 1.3.1979, and the four Trusts have paid Agricultural Income Tax even for periods commencing 1.3.1979. Let the entire amount of agricultural income tax so deposited by the four Trusts for periods commencing

1.3.1979 be refunded to them with interest quantified at the Rs. 5,000.00 (Five Thousand) each Trust within a period of four months from today.

(iii) The learned Collector of the district of Buxar shall consider whether or not non-payment of Agricultural Income Tax with effect from 1.3.1979 will have any impact on the quantification of the amount of perpetual annuity. If yes, the Trusts shall be given the benefit thereof within the same period.

(iv) The petitioner had also prayed that the perpetual annuity may be enhanced on account of the ever-growing inflation and the spiral of rising prices. The petitioner had earlier moved this court by preferring C.W.J.C. No. 11751 of 1996 (Maharaj Kumar Kamal Singh vs. The State of Bihar & Ors.), which was disposed of by order dated 19.8.1998 (Annexure-1). The relevant portion of the order is set out hereinbelow for the facility of quick reference:

"So far as the question of enhancement of annuity is concerned, according to me, the petitioner should at the first instance move before the respondent State for such relief. If the petitioner prefers any such application for enhancement of annuity, it is expected that the respondents will consider the case in accordance with law."

The counter affidavit on behalf of the Collector of the district of Buxar does not disclose whether or not the petitioner''s representation (Annexure-4) filed in this behalf has been disposed of. Let the learned Collector of the district of Buxar dispose of the petitioner''s representation dated 9.11.2002 (Annexure-4), wherein the petitioner has prayed that the perpetual annuity of each Trust may be enhanced on account of inflation, by a reasoned order within the same period

4. This writ petition is accordingly disposed of.