

(2019) 12 PAT CK 0028

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 24267 Of 2019

Khatija Khatoon And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) Act,
1961 — Section 15(1), 45B

Citation : (2019) 12 PAT CK 0028

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Md. Nurul Hoda, Satish Chandra Mishra, Raj Kishore Roy

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners and learned GP 18 for the State.

2. The petitioners have moved the Court for the following reliefs:

"(i) For issuance of an appropriate writ/writs in the nature of Certiorari for quashing the impugned order dated 31.07.2012 (Annexure- 1) passed by the Additional Collector, Katihar i.e. Respondent No. 4 in Misc. Land Ceiling Case No. 15/2012-13 whereby and where under the case of the petitioners has been rejected in which the petitioners had made the prayer to exempt their lands notified under Section 15(1) of the Bihar Land Ceiling Act vide Notification No. 1 dated 23.05.1991 by the Collector, Katihar against the name of one Hari Prasad Bhagat, son of Late Gore Lal Bhagat of village-Sujapur, P.S. Barari, District-Katihar in Land Ceiling Case No. 156/1973-74 with respect to the land of the petitioners situated in village Sujapur appertaining to khata No. 274, Plot No. 2518, area 57 decimals (Total area of the plot is 1.16 acres) and Khata No. 16, Plot No. 117, Area 97 decimals situated in Mauza Hassainabad, which are the purchased plots of the petitioners from Rajendra Prasad Bhagat and Badri Prasad Bhagat, both sons of Shyam Sundar Bhagat vide sale deeds dated 18.11.1974

and no any ceiling proceeding has ever been held against the aforesaid persons.

(ii) For issuance of appropriate writ/writs in the nature of mandamus directing the concerned respondents to delete the aforesaid lands from impugned Gazette Notification No. 1 dated 23.05.1991 issued by the Collector, Katihar without proper verification and due to which the petitioners are facing hardships and threatening of ejection from their peaceful possession.

(iii) For issuance of appropriate writ/writs in the nature of mandamus directing the concerned respondents not to disturb the possession of the petitioners over the lands in question as the petitioners are the actual owner of the lands in question and they are in peaceful possession of the same and are paying the rent and for which rent receipts are issued to them regularly.

(iv) Any other relief/reliefs may also be granted in favour of the petitioners for which they are found entitled in the facts and circumstances of the case."

3. The petitioners are aggrieved by wrong inclusion of their names/lands in Land Ceiling Case No. 156 of 1973-74, on the ground that such lands were excluded much prior to coming into effect of the Ceiling Act. It was submitted that earlier the petitioners had moved the Court in CWJC No. 6728 of 1991 and by order dated 05.01.1993, the matter was referred to the Collector of the district to pass order under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the 'Act'). It was submitted that thereafter, the matter remained pending and nothing happened due to which the petitioners again moved the Court in CWJC No. 19244 of 2012, which was disposed off as withdrawn by order dated 02.02.2016, for moving before the State Government under Section 45B of the Act. Learned counsel submitted that due to amendment in the Act, now the State Government has no power to consider the matter and, thus, the present writ has been filed. Learned counsel drew the attention of the Court to order dated 25.07.2014 passed in CWJC No. 5063 of 2014, by which similarly situated persons aggrieved by the order of the Additional Collector, Katihar had been granted relief by quashing of the order dated 13.01.2012 and the Collector was directed to consider the case of the petitioners on merit after giving notice to the parties concerned in terms of the order dated 05.01.1993 passed in CWJC No. 6728 of 1991 and dispose off the same, in accordance with law.

4. Learned counsel for the State submitted that similar order may also be passed in the present case.

5. Having considered the aforesaid, the order impugned dated 31.07.2012 passed by the Additional Collector, Katihar under Section 45B of the Act, stands set aside. The Collector, Katihar shall consider the case of the petitioners on merit, after giving notice to the parties concerned, in terms of order dated 05.01.1993 passed in CWJC No. 6728 of 1991, in accordance with law. Further, the Court would also direct the Collector to complete the process within six months from the date of production of a copy of this order before him, in view of

the matter being quite old.

6. The writ petition stands disposed off in the aforementioned terms.