
(2010) 03 PAT CK 0135
In the Patna High Court

Mahabir Das and Binod Das

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-03-2010

Acts Referred:

Citation : (2011) 59 BLJR 2065

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard learned Counsel for the petitioners, the State and the counsel for private respondents.

2. Petitioners are aggrieved by the order dated 1.3.1996 passed by the Collector, Purnea in Misc. Ceiling Case No. 10 of 1991-92/41 of 1991-92, Annexure-6, whereunder lands of khata No. 109 of mauja Bhangaha Tola and khata No. 1074 of mauja Rupauli has been excluded from Land Ceiling Case No. 1570 of 1973-74, 406 of 1981-82 as the raiyat of those lands were not the land holders against whom the aforesaid land ceiling case was initiated.

3. It is submitted on behalf of the petitioners that earlier they had been given red cards after the aforesaid land was declared surplus of the land holders, whereafter others who were the raiyat of the lands in question approached this Court and in compliance of the orders of this Court the matter was reopened, examined and found that the land holder was not the raiyat of the lands in question. In appreciation of the facts found under the impugned order the lands in question has been excluded from the ceiling proceeding initiated against the land holder Bhagwat Choudhary with further liberty to the land holder to apply for option. It is further submitted that before passing the impugned order dated 1.3.1996, Annexure-6 it was incumbent upon the authorities to have given notice to the petitioners for granting them opportunity of being heard, as they were not heard and orders were passed excluding the lands in question from the proceeding initiated against the land holder Bhagwat Choudhary, the order suffers from the vice of arbitrariness.

4. Counsel for private respondent i.e Bhagwat Choudhary with reference to the order dated 18.3.1993 passed in Misc. Ceiling Case No. 41 of 1991-92 contained in Annexure-E submitted that steps were taken to serve notice through the Circle Officer, Parwatta as would appear from the contents of letter No. 1362 dated 23.6.1993 and letter No. 667 dated 26.8.1993, Annexures-F and G.

5. True it is that steps were taken by the authorities to serve the notice of Misc. Case No. 41 of 1991-92 against the red card holders i.e. Mahabir Das and others but neither the actual service report nor the order sheet indicating actual service of notice of these proceedings of the red card holders has been placed before this Court. In the circumstances, I am not satisfied that the petitioners were served with the notice of the proceeding before the impugned order dated 1.3.1996 was passed.

6. Having heard counsel for the petitioners and the State, I am of the view that petitioners should appear before the Collector, Purnea along with a copy of this order and satisfy the Collector that the land holder M/s Chandrashekar Choudhary and Bhagwat Choudhary are the raiyat of the lands in question which was excluded under order dated 1.3.1996, Annexure-6 and if the Collector, Purnia is satisfied that the aforesaid two land holders were the raiyat of khata Nos. 109, 1074 of Mauja Bhangaha Tola and Rupauli, the private respondents may be issued notice, failing which the proceeding shall remain closed.

7. This writ application is, accordingly, disposed of.