

(2002) 03 PAT CK 0030
In the Patna High Court
Case No : L.P.A. No. 196 of 2002

Mahanth Ram Shankar Das APPELLANT
Vs
The State of Bihar and Others RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act,
1961 — Section 10, 10(3), 32A, 5
Constitution of India, 1950 — Article 226

Citation : (2002) 2 PLJR 639

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Pushkar Narain Shahi and Ram Vinay Sharma, for the Appellant;
Uma Kant Shukla and Rajesh Ranjan, Vijay Kumar Bhagat and Md. Matloob Rab,
for the Respondent

Final Decision : Dismissed

Judgement

1. The present appeal has been preferred against the order of this Court dated 15.1.2002 passed in C.W.J.C. No. 499/2002 whereby the writ application of the Appellant has been dismissed. In the writ petition the order of the Collector was challenged under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the "Act") by which the Collector had indicated the procedure for disposal of the objection received u/s 10 of the Act.

2. The learned writ Court found that as the Collector had not decided any issue and the order under challenge was merely an interim order, same did not require to be interfered under Article 226 of the Constitution of India. In the impugned order the learned writ Court has further opined that if the writ Petitioner was aggrieved by the order disposing of the objections u/s 10 of the Act then the parties would have ample opportunity to challenge the same before the appellate and higher authorities.

3. Learned Counsel appearing for the Appellant in the present appeal, on the other hand, has contended that the Collector under the Act should have first disposed of the objection filed by the objectors and others prior to passing of the final order u/s 10(3) of the Ceiling Act. However, in the present case it has been directed that final order u/s 10(3) of the Act as well as the objections would be disposed of simultaneously. In support of his contention, reliance has been made on the judgment of this Court in the case of Mohan Chaudhary and Others Vs. State of Bihar, . In the aforesaid case a Bench of this Court while taking into consideration the implication of Sections 5, 10, 32A of the Act had opined that the requirement in law to proceed afresh from the stage of Section 10 does not mean that the proceeding is to be started de novo from the stage of verification-proceeding which has not attained finality has to proceed from the stage of Section 10 and all the findings in the earlier proceeding are wiped out meaning thereby that while proceeding afresh the authorities have to comply with all the requirements of the amended provisions, i.e., after the abatement of the appeal the authorities proceeded in the matter afresh but decided the matter on the basis of the same materials.

4. While going enough the aforesaid judgment, we do not find that the decision arrived at by the writ Court under challenge is in any way inflicted with the aforesaid decision. The Collector under the Act had directed the objections to be disposed of. If the final order u/s 10(3) of the Act is also passed simultaneously, after considering the objections, the Appellant cannot raise any grievance thereto. He will have ample opportunity to raise his grievances, if aggrieved by the aforesaid order at the appellate stage or other higher forum.

5. In view of the discussions made above, we do not find any infirmity in the order of the learned writ Court requiring interference in the present Letters Patent Appeal.

6. This appeal stands dismissed being devoid of merit.