
(1984) 11 PAT CK 0014
In the Patna High Court
Case No : C.W.J. No. 492 of 1979

Mahanth Sagar Das

APPELLANT

Vs

The Deputy Collector Land Reforms and Others

RESPONDENT

Date of Decision : 13-11-1984

Acts Referred:

Bihar Tenancy Act, 1885 — Section 48E, 48E(6)

Citation : (1985) 33 BLJR 109

Hon'ble Judges : B.P. Jha, J

Bench : Single Bench

Judgement

B.P. Jha, J.—This matter arises out of a proceeding u/s 48E of the Bihar Tenancy Act. In this writ petition the petitioner has prayed for quashing Annexure No. 7. Annexure-5 contains the order of the Batai Board and Annexure-7 contains the orders of the Land Reforms Deputy Collector. By Annexure-5, the Board recommended the claims of the bataldars. By Annexure-7, the Land Reforms Duputy Collector upheld the recommendation of the Board.

2. The main grievance of the petitioner is that the Board did not make any endeavour to bring about settlement between the parties. This point has been taken in this petition. No counter-affidavit has been filed by the respondents. Hence I believe the statements made in this petition as correct. It is the duty of the Board to mention either in the ordersheet or in the impugned order that the Board made endeavour to bring about amicable settlement between the parties. The Board is also required to mention whether it succeeded or it failed in its attempt. In the absence of such order, it will be presumed that the Board did not make any endeavour for amicable settlement. In the absence of such order either in the order or in the impugned order, this Court is Bound to quash the proceeding u/s 48E in the Bihar Tenancy Act.

3. It has been consistently held by this Court that Section 48E(6) is a mandatory provision. If the procedure has not been followed by the Board then this Court has quashed proceedings u/s 48E of the Bihar Tenancy Act. The Court can gather

this information only on the basis of the order-sheet or on the basis of the impugned order. If there is no mention about taking action u/s 48E(6) either in the order sheet or in the impugned order, this Court must quash the proceeding u/s 48E of the Act.

4. In view of the lacuna, I quash Annexures-5 and 7 remit the whole case to Land Reforms Deputy Collector, Hajipur, for a fresh proceeding in accordance with law after issuing notices to the parties concerned, Parties shall bear their own costs.