(2022) 07 PAT CK 0053

In the Patna High Court

Case No : Letters Patent Appeal No. 584 Of 2019 In Civil Writ Jurisdiction Case No. 7102 Of 2019

Md. Fazlul Karim — APPELLANT

Vs

State Of Bihar — RESPONDENT

Date of Decision : 07-07-2022

Acts Referred:

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

Citation : (2022) 07 PAT CK 0053

Hon'ble Judges : Ashutosh Kumar, J;Jitendra Kumar, J

Bench : Division Bench

Advocate : Md. Musowir, Md. Khurshid Alam

Final Decision : Dismissed

Judgement

Heard Mr. Vishwnath Chaudhary, learned counsel for the appellant and Mr. Arun Kumar Bhagat, learned counsel for the State.

The father of the appellants had filed a writ application vide C.W.J.C No. 3370 of 2019 which was disposed off in the year 1999 along with another writ application challenging the notice issued consequent to the declaration of surplus land under the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1961. The aforesaid notice is dated 13.10.1998.

The challenge of the appellants before the learned Single Judge was that they were not parties to the proceedings in C.W.J.C No. 3370 of 1993 and, therefore, they had no idea whether the observations made by the Bench then was actually put to use by their father.

While disposing off C.W.J.C No. 3370 of 1993, referred to above, the Bench had observed that the writ petitioners therein would at liberty to file an application under Section 45-B of the Act before the competent authority and if at all such an application would be filed, it shall be decided by the reasoned order. Whether such a petition was filed during the subsistence of the provision of 45-B in the Statute was not clearly demonstrated before the learned Single Judge. A vague statement appears to have been made in paragraph 4 of the connected writ petition, namely, C.W.J.C No. 7102 of 2019 that such a case was filed before the State Government. The aforesaid statement was not supported by any documentary proof or even the case number. With the passage of time, 45-B of the Act stood repealed and Section 45-D was introduced. 45-D specifies that after the repeal of Section 45-B of the Act, proceedings pending before the State Government or the Bihar Land Tribunal would be deemed to have abated and all the proceedings reopened earlier under the deleted Section 45-B and pending before the Collector shall also stand abated.

Seen in this background, the learned Single Judge found that the appellants had approached the Court for setting aside an order passed in the year 1993 without any definite plea with respect to the date of death of their father.

The land appears to have been declared surplus on 04.10.1999 which was acquired and the proceedings were published in Bihar Gazette on 16.07.1978 under Section 15 (1) of the Act.

Seven years after the publication of the notification referred to above, the land holders had filed an application in the year 1985 about more land having been entered into the record which was actually found to be surplus. The matter was refereed by the Collector to the Additional Collector for carrying out correction but the Additional Collector, unauthorizedly, reopened the entire proceedings under Section 45-B of the Act.

Thus, we find that the land was declared surplus in the year 1978 and necessary corrections in the area of land having been declared surplus was also carried out sometimes later.

The learned Single Judge also could not find anything on record to lend credence to the statement made by the appellants that in view of the order passed by the Writ Court earlier, whether any effort was made by the father of the appellants to get the matter reopened under Section 45-B of the Act.

The appellants’ claim of their not being aware of the proceedings was not accepted by the learned Single Judge and the case was dismissed.

We find the observation of the learned Single Judge to be absolutely correct that there would be no justification for not distributing the land which was declared surplus long time ago.

We do not find any reason to interfere with the impugned order.

The appeal is dismissed, accordingly.

