

(2002) 04 PAT CK 0088
In the Patna High Court
Case No : C.W.J.C. No. 7953 of 1999

Mohammad Hasan Khan and Another	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 02-04-2002

Acts Referred:

Bihar Bhoodan Yagna Act, 1954 — Section 11(4), 13

Citation : (2002) 3 PLJR 23

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Sarvendra Kumar Verma and Sanjay Kumar Sinha, for the Appellant;
Abbas Haider and Vinay Kant Mani Tripathi, for the Respondent

Final Decision : Dismissed

Judgement

Shiva Kirti Singh, J.—Heard the parties.

2. Through this writ petition Petitioners seek various reliefs such as setting aside of order dated 3.3.1998 by which 80 decimals of land has been settled with Respondent Nos. 4 and 5 and an implied declaration that 51 decimals of land from the same plot has been rightly settled in favour of Petitioners by the Bihar Bhoodan Yagna Committee through certificate dated 15.5.1996 (Annexure-1).

3. Petitioners' case is that Khesra No. 345 of Khata No. 123, Mauza Fatehpur has a total area of 1 acre 82 decimals and the same was gifted to Bhoodan Yagna authorities by Hathuwa Estate. On the basis of Annexure-2 it has been submitted that though initially by order dated 9.4.1973 the land of aforesaid Khesra No. 345 was not confirmed for the purposes of Section 13 of the Bihar Bhoodan Yagna Act, 1954 (hereinafter referred to as "the Act") on the ground that it is Pokhra but subsequently Petitioners were settled with 51 decimals of land of the said plot in the year 1996 by the Bhoodan Yagna Committee and by subsequent order dated 6.10.1998 the SDO, Hathuwa gave a finding that there was typographical error in the order dated 9.4.1973. According to order dated

6.10.1998, instead of Khesra No. 34 area 1.82 decimals, the correct description should have been Khesra No. 345. According to Petitioners, once the order dated 6.10.1998 was passed, the land of Khesra No. 345 vested in the Bhoodan Yagna Committee from the date of the initial donation and hence, settlement of 51 decimals from the said plot in favour of the Petitioners made in the year 1996 through Annexure-1 became legal and valid. Hence, no land of said Khesra could have been settled with Respondent Nos. 4 and 5 as has been done by orders contained in Annexure-6 to the supplementary affidavit.

4. On behalf of Respondents No. 4 and 5 it has been submitted that settlement of 80 decimals was made with them after full enquiry and verification vide order dated 30.3.1998 (part of Annexure-6). It has further been submitted that a perusal of Annexure-2 would show that order dated 9.4.1973 is in two parts, the first part contains list of Khesras (plot numbers) which for reasons mentioned in that order, were not confirmed u/s 11(4) of the Act. In this first part Khesra No. 345 is specifically mentioned. Thereafter, in the second part further Khesras (plot numbers) are mentioned which were confirmed u/s 11(4) of the Act. Allegedly in the second part Khesra No. 34 is a typographical error for Khesra No. 345 but it is not the case of authorities that there was any typographical error in the first part of the order also where Khesra No. 345 is clearly mentioned among the plots which were not confirmed under the Act. Hence, it has been submitted that there is actually no confirmation of gift under the Act so far as Khesra No. 345 is concerned and therefore, this land never vested in the Bhoodan Yagna Committee and, therefore, it was available to the State of Bihar for settlement in accordance with its policy. It was further submitted on behalf of private Respondents that even the alleged typographical correction has been ordered on 6.10.1998 i.e. much after the issuance of alleged Parcha in favour of the Petitioners and also after 80 decimals of plot No. 345 had been settled with these Respondents.

5. Considering all the facts and circumstances of the case, this Court is of the considered opinion that Petitioners are not entitled to the reliefs claimed in this writ petition. This Court fails to appreciate how a certificate could be issued by Bihar Bhoodan Yagna Committee in their favour on 15.5.1996 when plot No. 345 of Mauza Fatehpur was not included among the lands confirmed u/s 11(4) of the Act till at least 6.10.1998. Even the order dated 6.10.1998 does not inspire confidence because it fails to take notice of the entire order dated 9.4.1973 which was in two parts and plot No. 345 was mentioned in the first part also among the plots which were not found fit for confirmation. Accordingly this writ petition is dismissed. However, if the Petitioners are qualified to take settlement of 51 decimals of land from Khesra No. 345 indicated above as per general policy of the State Government then they may apply for such settlement, If such application is filed then it should be considered in accordance with law.