

(2003) 01 PAT CK 0039
In the Patna High Court
Case No : L.P.A. No. 713 of 2002

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

Date of Decision : 29-01-2003

Acts Referred:

Bihar Bhoodan Yagna Act, 1954 — Section 11, 13, 17B

Citation : (2003) 2 PLJR 333

Hon'ble Judges : R.S. Garg, J; Nagendra Rai, J

Bench : Division Bench

Advocate : Sarvendra Kr. Verma and Sanjay Kr. Sinha, for the Appellant; S.S. Naiyar Hussain, for State and Suresh Prasad, for the Respondent

Judgement

1. The appeal is barred by limitation.
2. After having heard learned Counsel for the parties and taking into consideration the averments made in the limitation petition we are satisfied that sufficient ground has been made out to condone the delay in filing this appeal. Accordingly, the delay in filing this appeal is condoned.
3. This appeal is directed against the order dated 2.4.2002 passed in CWJC No. 7953 of 1999 (reported in Mohammad Hasan Khan and Another Vs. The State of Bihar and Others,) by a learned Single Judge of this Court by which the writ application filed by the Petitioner challenging the settlement of 80 decimals of land of Khesra No. 345 of Khata No. 123, Mauza Fatehpur in favour of Respondent Nos. 4 and 5 has been dismissed.
4. The factual matrix for disposal of the present appeal is that in the year 1970, Hathuwa estate donated land to Bhoodan Yagna Committee under the provisions of Bihar Bhoodan Yagna Act, 1954 (hereinafter referred to as the Act). After donation of the land, the authorities under the Act took steps for publication and investigation upon Yagna Danpatra. Thereafter, a final order was passed and with regard to certain plots Danpatra was superseded and regarding other plots

Danpatra was confirmed in terms of the provision of Section 11 of the Act. While giving the details of the plots with regard to which Danpatra was superseded, plot No. 345 was also mentioned and amongst the plots which were confirmed plot No. 34 area 1 acre 82 decimals was mentioned. The case of Appellant is that plot No. 345 was also confirmed but by mistake plot No. 34 was mentioned. However, the total area of the plot number was detailed therein.

5. Be that as it may, it appears that later on the State Government treating the land as belonging to the State Government settled the same to Respondent Nos. 4 and 5. The Petitioner challenged the aforesaid settlement but was unsuccessful. Hence the present appeal.

6. It appears that on 6.10.1998, the concerned authority under the Act noticed that plot No. 34 area 1.82 decimals which was mentioned amongst the confirmed plot was really plot No. 345 under Khata No. 123. Thus, according to the said authority the said plot was confirmed as back as in the year 1973 but there was mistake in describing the same.

7. According to the Appellants after the plot No. 345 was confirmed the same was settled to them in the year 1996 and Plot No. 34 was a mistake. It was plot No. 345 which as stated above was corrected by the authorities.

8. If it is found that Plot No. 345 was also confirmed in the year 1973 u/s 11 of the Act and plot 34 was a mistake in that case the land would vest in the Bhoodan Yagna Committee under the provisions of Section 13 of the Act and thereafter the State Government has no power to settle the same. In case there was no confirmation of the aforesaid plot then the State Government is competent to settle the land. The question has to be considered by the authority vested power under the Act. Section 17-B of the Act provides that the Collector of the District has power to issue general direction and control of the acts of the revenue officer.

9. Taking into consideration the peculiar nature of controversy in this case we are of the view that the Collector of the District should consider the matter. He will go into the question as to whether plot No. 345 was one of the plots which was confirmed u/s 11 of the Act and then settlement was made to the Appellant, then there is no question of the land which is vested u/s 13 of the Act being made available for settlement by the State Government. In case it is found that there is no confirmation of the aforesaid plot at that time as asserted by the Appellant and at the time of settlement, the land had not been vested in the Bhoodan Yagna Committee, then the settlement allegedly made in favour of Respondents No. 4 and 5 cannot be faulted with and the Appellant can have no claim with regard to the same. He should decide the controversy within three months from the date of receipt/production of a copy of this order after giving an opportunity of hearing to the parties.

10. In the result, the impugned order is set aside and the appeal is disposed of with the aforesaid direction.