

(2019) 12 PAT CK 0217

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 25237 Of 2019

Mohammad Nausad Alam

APPELLANT

Vs

State Of Bihar Through And Ors

RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

Bihar Land Ceiling Act, 1961 — Section 15(1), 47
Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) Act,
1950 — Section 15

Citation : (2019) 12 PAT CK 0217

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Vikram Singh, Amit Ranjan, Sajid Salim Khan, Wasi Ahmad Khan

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned SC 25 for the State.

2. The petitioner has moved the Court for the following reliefs:

"(I) For issuance of appropriate writ/ order/direction commanding the Respondents to pass the appropriate order an application filed by the petitioner for cancellation of issuance of "Red Card" In favour of the Respondent No. 6 on the basis of record No. 26/1991 appertaining to Mauja- Rampur, Revenue Thana- K. Nagar, Thana No. 20, District- Purnea, Khatta No. 201, Khesara (Plot No. 1171) Area. 0.54 decimals which has been purchased by the father of the petitioner through sale deed dated 20.09.1960 from namely one Seikh Mazzahar Ali and Since then the petitioner is in possession of the said land and regularly paying/revenue-Tax having upto date Rent Receipt.

(ii) For issuance of appropriate writ/order/direction restraining the Respondent not to dispute the peaceful the possession of the petitioner over the aforesaid land.

(iii) For issuance of appropriate writ/order/direction/commanding the Respondent

to make the inquiry into the matter and pass appropriate order under Section 47 of the Bihar Land Ceiling Act, 1961 Read herein after as Ceiling Act by Cancelling the Red Card erroneously and illegally issued in favour of the Respondent No. 6.

(iv) For issuance of appropriate writ/order/direction commanding the Respondent No. 6 like the order contained in Memo No. 5872 dated 12.12.1990, issued on the basis of order passed in various miscellaneous cases filed by Several purchaets and accordingly passed the order for amendment of the notification published Under Section 15 (1) of the "Celling Act."

(v) For issuance of appropriate writ/order/direction commanding the Respondent No. 3 to pass the identical order dated 04.04.1991 relating to other purchaser of the land contained in notification Under Section 15 (1) of the "Ceilling Act" who were like the petitioner.

(vi) For any other relief/reliefs as your lordship may deem fit and proper in the facts and circumstances of the case."

3. The grievance of the petitioner is that a land which was gifted through Hibanama by his father, brought prior to the ceiling proceeding against the landholder, and which also stood excluded from the ceiling proceedings, has been distributed to private persons, including respondent no. 6, by issuance of Red Card.

4. Learned counsel for the petitioner submitted that the plots in question being the personal/private land of the petitioner has been wrongly settled with the respondent no. 6 by issuing him Red Card for which he has moved the authorities concerned, including the District Grievance Redressal Forum which has disposed off the matter observing that for cancellation of the Red Card, the petitioner has to move before the concerned Sub Divisional Officer. It was submitted that such observation is erroneous as the Red Card was issued by the Additional Collector, Ceiling and thus, in law he or his superior authority would be competent to cancel the same.

5. Learned counsel for the State submitted that the petitioner should approach the competent authority which may be directed to dispose off the matter.

6. Having regard to the aforesaid, the application stands disposed off with liberty to the petitioner to move before the respondent no. 3, who had issued the Red Card in favour of the respondent no. 6. It shall be open for him to demonstrate before the authority with regard to the land being beyond the purview of the ceiling proceeding and, thus, not amenable to settlement by the State to any person as also not being declared as surplus under Section 15 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1950.

7. If the petitioner files such application, along with supporting documents, before the respondent no. 2 in the matter, the same shall be considered and disposed off, in accordance with law, expeditiously and latest within two months from the date of filing of the application, after giving opportunity of hearing to all

concerned.