

(2020) 02 PAT CK 0078

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5215 Of 2015

Nagendra Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) Act,
1961 — Section 27A

Citation : (2020) 02 PAT CK 0078

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Rajendra Nath Sinha, Anil Kumar Singh

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned AC to GP 26 for the State.

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

â?? That this is an application for direction or directions, order or orders by way of an appropriate writ or writs preferably in the nature

of â??MANDAMUSâ?? directing the respondents to give the possession of the land allotted to him by State Govt as was handicapt at

village Nagwas, Police Station Arej under district Madhubani vide Khatta no. 1, 126, 178, 17, 81, 34, 80, 66, 104, 17, 106, 8 and there

kheshra no. is 2058, 661, 854, 855, 856, 857, 858, 859, 861, 862, 863, 864 total area is 3 acres and 5 decimal.â??

3. The petitioner claims to be an ex army personnel injured in the war while on duty. He moved before the authorities for settlement of land in his

favour and initially got settlement for a piece of land measuring 3 acres 5 decimals. However, the grievance was that he was never given possession

of the land settled with him due to which he filed CWJC No. 1703 of 1998 which was disposed off on 29.06.1999 with a direction to the petitioner to

file a petition before the Collector of the district who was to take steps in terms of the provision of Section 27A of the Bihar Land Reforms (Fixation

of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

4. Learned counsel for the petitioner submitted that despite such order possession of the lands in question has not been given to the petitioner. It was

submitted that the settlement order is of the year 1989 and on some pretext or the other the authorities are not taking steps to deliver possession of the

said land to the petitioner.

5. Learned counsel for the State, who has filed two counter affidavits, submitted that the Collector, Madhubani had got the matter enquired by the Sub

Divisional Officer, Benipatti and it transpired that the petitioner was not eligible for settlement of the land under the policy of the State Government

contained in Letter No. 4725 of the Revenue and Land Reforms Department, Government of Bihar dated 14/16.08.1972. It was submitted that though

there is provision of settlement of land with armed forces personnel who are injured while performing their duty, one of the conditions is that the

person should be landless and further that upper ceiling limit is fixed and even if the person has some land the settlement can be only of an area which

does not exceed the upper limit fixed in the said circular of the State Government which includes what is already held by the person concerned. It was

submitted that during enquiry it has transpired that the petitioner already has 5 acres 10 decimals and 524 square feet of land in his name. It was, thus,

submitted that the petitioner becomes ineligible for any further settlement of land as per the said circular of the Government dated 14/16.08.1972.

Learned counsel submitted that in terms thereof, the recommendation has been made for cancellation of such settlement and also for taking

appropriate action against the then Revenue Karamchari/Circle Inspector as also the Circle Officer for committing such illegality.

6. Learned counsel for the petitioner, by way of reply, submitted that earlier after due verification, the petitioner was found suitable for being settled

the land in question under the same circular and, thus, the officers today cannot take a u-turn and say that the petitioner was not fulfilling the eligibility

criteria for such settlement. It was submitted that while making the settlement in

the year 1989, all enquiries were made and the petitioner having been found to be entitled to such settlement, the same was made. It was submitted that the authorities are creating new issues which they are not permitted to do once having found the petitioner eligible they have also issued settlement order in his favour. Learned counsel summed up his argument by submitting that the authorities be directed to ensure that the petitioner is given possession of the lands in question.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not persuaded to interfere in the matter.

8. The petitioner may have been settled the land under the category of an Ex-Army Man who was injured during war, but the same is governed by the terms and conditions of the policy of the State Government which clearly specifies the upper limit of land area which can be settled with further stipulation that the person should be landless. It further provides that even if the person has some land, there can be settlement of land by the Government in his favour but in any case, the total land which the person possesses/owns and the land to be settled with him should not exceed the upper limit as prescribed in the said circular of the State Government. Thus, even if it is assumed that the petitioner was entitled to settlement upto a limit of 5 acres, when in the enquiry it has been found that the share of the petitioner in the ancestral land exceeds five acres, there cannot be any question of further settlement of government land to him.

9. Here the Court would indicate that such stand has been taken on behalf of the authorities in the counter affidavit filed on behalf of the respondent no. 2, copy of which was served on learned counsel for the petitioner on 26.11.2019, to which there is no rejoinder or rebuttal. Thus, when the petitioner does not deny the fact that he is the owner of more than 5 acres of land as detailed in the report of the Circle Officer, Benipatti along with the Circle Inspector as well as the Revenue Karamchari, obviously the petitioner becomes ineligible for settlement of any further land under the said Scheme of the State Government. Thus, once the Court has found the petitioner not to possess the eligibility criteria for settlement of government land, there cannot be any direction to the authorities to ensure the possession of such land to him. Moreover, as the authorities have started taking action

pursuant to the orders passed by the Court and the recommendation of the Sub Divisional Officer, Benipatti which has been forwarded to the District

Magistrate, Madhubani with a recommendation to cancel the settlement done in favour of the petitioner and to take action against the then Revenue

Karamchari/Revenue Inspector and Circle Officer, it becomes clear that the authorities had earlier acted against the provision of the Scheme of the

State Government and the settlement is totally illegal. Thus, once such fact stands uncontroverted/unrebutted, the right of the petitioner to such

settlement itself having vanished, the Court finds that the reliefs prayed for in the present writ application cannot be granted to him.

10. For reasons aforesaid, the writ petition stands dismissed.