
(2002) 04 PAT CK 0091
In the Patna High Court
Case No : L.P.A. No. 451 of 2002

Nawal Kishore Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-04-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 340

Citation : (2002) 2 PLJR 713

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Viveka Nand Vivek, for the Appellant;

Final Decision : Dismissed

Judgement

1. The Petitioner brought a writ petition C.W.J.C. No. 16123 of 2001 Nawal Kishore Sah Vs. The State of Bihar and Others, .
2. The issues brought in the writ petition are under the Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act IV of 1948).
3. If the Petitioner had been satisfied with the order on the writ petition dated 8 February, 2002, it would have been another matter. But the Petitioner still chases issues after the order in a Letters Patent Appeal. The issue on the writ petition plainly was that whether the Petitioner had been rightly denied the status of a privileged person so as to continue in that status. The status of the Petitioner was challenged in the village as the Collector gave a finding that the Petitioner is not one of those persons who could claim a status under the Act, aforesaid.
4. Basically, the concession which has been granted under the Act aforesaid is literally for the under privileged. The Act is in the shape of a social reform to take care of persons who were virtually "Bhumihin". The question arises whether the Petitioner is one such person who could receive a status of privileged person so as to receive a holding under the Act. What the Petitioner contended in the writ petition was not exactly the entire facts. It was not the whole truth.

5. It took the Respondents to file an affidavit and lay thread-bare the holdings of the Petitioner as also the aspect that the Petitioner's father and grand father were also possessed of sufficient land and if these holdings were to be put together the Petitioner would be holding virtually 1.14 acres and 0.36 acres of land if not more. In addition, Respondent No. 5 claimed that the Petitioner is a rich businessman and a Mahajan. A Mahajan, a money lender, has no status to come within the meaning of privileged persons to see an allotment of an agricultural holding under the Act, aforesaid.

6. The counter affidavit of the Respondent No. 5 lay on record with service upon the Petitioner on 27 January, 2002 and the Petitioner did not dare to rebut the statement of fact which is on record in the counter affidavit. The issues plainly have rested on what the Petitioner has stated as also the contesting Respondent has stated. Record for record the facts stated by the Petitioner have turned out to be incorrect.

7. By the present Letters Patent Appeal the Petitioner desires that the matter ought to be remanded to the Anchal Adhikari and/or Collector to examine the matter afresh. In effect, the Petitioner is virtually seeking a writ of mandamus that issues be remanded to the Collector.

8. This is hardly a case which should have been chased beyond the decision on the writ petition.

9. The writ jurisdiction of the High Court does not suffer falsehood. The time has come now for the High Court to see that in the cases filed before it, like the present one, matters which rest on untruth are suitably determined by the law which deals with false statements in judicial proceedings. This is Chapter XI of the Indian Penal Code, 1860. This is necessary so that people who encourage falsehood are kept at bay from the Court.

10. In the circumstances, the Court directs the Collector, Araria, in the matter relating to the Petitioner to examine along with the copy of the record of the High Court being sent to him. As the facts stated by the Petitioner bely the record, make out and file a complaint against the Petitioner u/s 340 of the Code of Criminal Procedure, 1973 before the Magistrate nearest to the Jurisdiction. A copy of the record of High Court will be sent by the Registrar General, High Court to the Collector, Araria.

11. Dismissed.