

(2025) 07 PAT CK 1305

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.15667 of 2018

Prakash Yadav

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 21-07-2025

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 30, 30(4), 45(B)

Citation : (2025) 07 PAT CK 1305

Hon'ble Judges : Anshuman, J

Bench : Single Bench

Advocate : Binay Kumar Sinha, Majid Mahboob Khan

Final Decision : Disposed Of

Judgement

Anshuman, J

1. Heard Learned Counsel for the petitioners and Learned Counsel for the State.
2. Learned counsel for the petitioners submits that the present writ petition has been filed for quashing the acquisition Notification No.2959 dated 03.11.1993 published in the Purnia district gazette – Extra Ordinary issue No.37 dated 09.11.1993 (Annexure-4). Further prayer has been made to directing the respondent No.2 to exclude the lands in question from the Land Ceiling Case and the related notification at Annexure-4 by issuance of suitable de-notification therefor and further not to restore to distribution of the lands in question to strangers till the disposal of this application.
3. Counsel further submits that the father of the petitioner No.1 (now dead) has moved before this Hon'ble Court firstly, in C.W.J.C. No.35 of 1994, which was disposed off by order dated 11.02.1994 with a direction to the petitioners to file a petition under section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act of 1961') with a protection order that during pendency of the said application, the

possession of the petitioners shall not be disturbed from the lands claimed.

4. Counsel further submits that for the second time in C.W.J.C. No.11855 of 1995, they have challenged the order of dropping of the Misc. Ceiling Case No.56 of 1994 under section 45B of the Act of 1961 on coming into force by ordinance No.20 of 1995 and this Hon'ble Court vide order dated 17.05.1996 had remitted the proceeding of the Misc. Ceiling Case with a direction to disposed of the same within a period of four months. In third time, petitioners/ his father have approached in C.W.J.C. No.10440 of 2009, when the proceeding was dismissed for default of non-appearance and was set aside dated 24.08.2000 with a direction to dispose off the proceeding preferably within 3 months.

5. Counsel further submits that the land in question is situated at Village-Barahkona, Thana No.125 Police Station-Dhamdaha, District-Purnia, appertaining to Khata No.129, Plot Nos.2552, 2553 and 2554 measuring 1.24 acres, 1.67 acres and 1.63 acres respectively, (total area 4.44 acres). He further submits that without notice or enquiry, the land in question was kept in the column of Surplus and for which Gazette Notification has also been published and being aggrieved and dissatisfied with the said notification, the petitioners/ his father have repeatedly moved before this Hon'ble Court. He further submits that Anchal Adhikari has submitted a report vide Letter dated 16.06.2011 that Jamabandi of the lands in question stood recorded in the name of the vendor of the petitioners and petitioners have been continuing in physical possession of the lands in question.

6. Counsel further submits that an Amendment Act has come in the year 2016 by which the provision of Section 45B of the Act of 1961 has been deleted from the Act. In result, the proceeding has been dropped vide order dated 26.02.2018 which is Annexure-6 of the writ petition, which is order impugned also.

7. Counsel further submits that when a right has been accrued under any law then, remedy must be available under the same law. He further submits that even if, the remedy under section 45B of the Act has been closed by virtue of Amendment Act, 2016, but even then, under the Miscellaneous Chapter, Section 30 of the Act of 1961 still empowers the Collector of the district that he may initiate the proceeding according to the Act based on his own knowledge and information, if he is satisfied that a land holder, in a proceeding under the Act, by fraudulently or by misrepresentation of facts or law, has managed to obtain an order from any of his subordinate authority with a view to defeat the objects of the Act or any provision thereof and retains land in excess of the ceiling area.

8. Counsel for the State on the other hand submits that though proceeding under section 45B of the Act of 1961 has been dropped and new provision of Section 45D has been added. But he submits that under section 30(4) of the Act, the Collector of the district has power.

9. In the light of the submissions made, it transpires to this Court that the petitioners have moved 4 times before this Hon'ble Court and persistently

pursuing their right before the Court of Law. But due to change in law, the order which was passed by the Court, could not be complied. The provisions of Section 30(4) of the Act of 1961 is very much relevant which states as follows:-

30(4). The Collector of a district may initiate a fresh proceeding under the Act if, upon his own knowledge or information, he is satisfied that a land holder, in a proceeding under the Act, by fraudulently or by misrepresentation of facts or law, has managed to obtain an order from any of his subordinate authority with a view to defeat the objects of the Act or any provision thereof and retains land in excess of the ceiling area.

10. From the above said provision, it transpires that it is well within the power of the Collector to initiate a fresh proceeding under the Act. It further transpires that the petitioners have moved before this Hon'ble Court 3 times earlier and observations made by this Hon'ble Court, have not been complied and again for the 4th time, they have moved when the Amendment Act, 2016 has come.

11. In this background that the observation passed by this Hon'ble Court in 3 writ petitions, is still thirsty and with a view to proper compliance of the Court's order, it is necessary to the Collector to look into the matter and the power vested upon him under section 30(4) of the Act of 1961. Hence, the matter is remanded back before the Collector and under the said provision of Section 30(4) of the Act of 1961, decide the matter relating to petitioners within 6 months from the date of production of this order.

12. It is made clear that the protection order granted by the Hon'ble Court to the petitioners shall continue that is the petitioners shall not be dispossessed from the land in question.

13. With the aforesaid directions and observations, the present writ application stands disposed off.