
(1999) 07 PAT CK 0094
In the Patna High Court
Case No : C.W.J.C. 8221 of 1989

Rameshwar Prasad Dubey and Others	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 28-07-1999

Acts Referred:

Citation : (1999) 3 PLJR 530

Hon'ble Judges : R.N. Sahay, J

Bench : Single Bench

Advocate : Kamal Nayan Choubey, for the Appellant; S. Alam and Matloob Rab, for the Respondent

Judgement

R.N. Sahay, J.—The four Petitioners who are the resident of Koitgawan, P.S. Kalyanpur, District-East Champaran have impugned the legality of notification u/s 15(1) of the Land Ceiling Act (Annexure-2) so far it relates to 50 acres of land which belonged to the Petitioners by virtue of a decree in a partition suit. In the impugned notification the disputed land has been shown as surplus land of one Hirdeya Narayan Dubey.

2. Shri Kamal Nayan Choubey, learned Counsel for the Petitioners, has submitted that the notification which purports to acquire the surplus land of Respondent No. 7 Hirdeya Narayan Dubey does not contain an inch land. The lands mentioned in notification measuring about 50 acres exclusively belongs to the Petitioners and rest belongs to others who have no concern with Respondent No. 7 Hirdeya Narayan Dubey. No notice was issued to the Petitioners under land ceiling proceeding. No opportunity was given to the Petitioners to satisfy the authority that the land in question was allotted to the Petitioners in T.S. No. 42 of 1950. By the said suit ancestor of the Petitioners and Respondent No. 7 have got his own share i.e. 1/3rd share each.

3. Ceiling proceeding was started against the ancestors of Petitioner Nos. 1 and 2 before the Land Reforms Deputy Collector, Motihari, which was finally disposed of

with a finding that there was no surplus land in the family.

4. Land ceiling case No. 33 of 1974-75 was initiated against Petitioner No. 4 with respect to the land situated in different villages. In the said case Petitioner No. 4 filed objection on several grounds. The objection having rejected preferred an appeal before the learned Additional Collector, Motihari who partly allowed the appeal. The Petitioner No. 4, his mother and daughter filed a writ petition before this Court challenging the aforesaid order as well as notification made under Sections 11(1) and 15(1) of the Act. This Court by order dated 25.9.76 in C.W.J.C. No. 2085 of 1976 allowed the writ petition and directed the Collector to examine the assertion of Petitioner No. 4 particularly with reference to compromise decree in Partition Suit No. 52 of 1950. Pursuant to that judgment Petitioner No. 4 filed an application on 25.3.79 in the court of Additional Collector Ceiling objected to draft statement and requesting him to call for a report from Anchal Adhikari and to drop the proceeding after considering the objection u/s 10(3) of the Act.

5. It is submitted that the Additional Collector Ceiling did not properly appreciate the direction of this Court disallowed the claim of the Petitioner and held that the mother of the Petitioner was not entitled to any unit. Against the aforesaid order Petitioner No. 4 filed C.W.J.C. No. 3264 of 1982 which was admitted and further proceeding was stayed by this Court.

6. In the light of the aforesaid fact, it is submitted that the proceeding against Petitioner Nos. 1 and 2 was finally dropped by the Collector and there was no proceeding against Petitioner No. 3. It is further submitted that the Petitioners are being harassed by the impugned publication u/s 15(1) of the Act. The Petitioners have prayed for quashing of the aforesaid notification.

7. In view of the facts and circumstances of the case I am inclined to quash Annexure 2 and to direct the Respondent No. 2 to consider and dispose of the objection of the Petitioners in the light of the case made out in the writ petition under consideration.

8. In the result notification (Annexure-2) is hereby quashed. The Respondent No. 2, Collector, Motihari, is directed to give a fresh decision in accordance with law. The Petitioners are directed to appear before the Collector along with a copy of the writ petition and the order passed in this case within six weeks from today. The Collector shall dispose of the case within three months from the date of appearance of the Petitioners and other party. There shall be no order as to costs.