
(2010) 09 PAT CK 0037
In the Patna High Court
Case No : CWJC No. 6401 of 2004

Ramjee Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-09-2010

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act,
1961 — Section 45B, 5

Citation : (2011) 3 PLJR 74

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : S.K. Verma, Jitendra Kishore Verma and Harendra Kumar Singh, for the Appellant; Kumari Amrita and Mritunjay Kumar, for the Respondent

Judgement

Sheema Ali Khan, J.—In this batch of thirteen writ petitions, the Petitioners are aggrieved by Annexure-1 which is a notice issued by Respondent Circle Officer seeking to evict them from the lands of Khata No. 68, Khesra No. 9400, as these lands have been declared to be surplus lands of the land holder Sudhir Chandra Majumdar. Originally the aforesaid plot No. 9400 was not included in the ceiling proceeding. It appears that on the basis of an enquiry made in the midst of ceiling proceeding, plot No. 9400 was included in the ceiling proceeding. Plot No. 9400 runs in the name of Aloka Majumdar, wife of Sudhir Chandra Majumdar, the person against whom land ceiling proceeding was initiated.

2. The Petitioners are either the settlees or purchasers from Aloka Majumdar of small plots of land. The writ Petitioners have challenged the said notice on the ground that no show cause was issued by the concerned authority before issuing the notice for eviction.

3. Specific case of the Petitioners is that during the ceiling proceeding the concerned authority did not take care to conduct an enquiry u/s 5(i)(iii) of the Bihar Land Ceiling Act to ascertain the actual physical possession of the lands in question. It is further submitted that the concerned authorities ought to have

conducted an enquiry to find out whether the sale deeds and the settlements made by Aloka Majumdar were for the purpose of defeating the provisions of the Ceiling Act. In absence of following the procedure as laid down under the law, the notices to the Petitioners is unwarranted. Besides this, the Petitioners also submit that even if the authorities had found that the sale deeds and the settlements have been made in order to defeat the provisions of the Act the authorities concerned ought to have clubbed the lands settled/sold to the Petitioner with the lands of the land holder.

4. All these issues obviously have not been high lighted in the counter affidavit, as there appears to be lapses on the part of the authorities, while conducting the ceiling proceeding. In any event of the matter, the Petitioners will be at liberty to file an application u/s 45B of the Act. The Minister will call for the records and after hearing the land-holder in the matter, pass appropriate orders in this matter. The State is directed to decide the matter expeditiously in view of the fact that there is a notice to the Petitioners to vacate the disputed land. Until such time as the Minister disposes of the application u/s 45B of the Act, the Collector, Muzaffarpur is directed not to take possession of the lands of the Petitioners.

5. The Petitioners are directed to file application u/s 45B of the Act within two months from the date of receipt of a copy of this order. A copy of the application filed u/s 45B of the Act, alongwith a copy of this order, should also be made available to the Collector, Muzaffarpur.

6. These writ petitions are disposed of with the aforesaid observations and directions.