

(2013) 01 PAT CK 0042

In the Patna High Court

Case No : LPA No. 104 of 2013 in CWJC No. 3572 of 2004 and I.A. No. 570 of 2013 in LPA No. 104 of 2013

Sardar Niranjana Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-01-2013

Acts Referred:

Citation : (2013) 2 PLJR 209

Hon'ble Judges : R.M. Dosit, C.J.; Ahsanuddin Amanullah, J

Bench : Division Bench

Advocate : Tuhin Shankar and A.D. Krishna, for the Appellant; Anwar Karim for State, for the Respondent

Judgement

R.M. Dosit, C.J.—The delay of seven days occurred in filing the Letters Patent Appeal is condoned. Interlocutory Application stands disposed of.

Letters Patent Appeal No. 104 of 2013:

2. This Appeal under Clause 10 of the Letters Patent has been preferred by the writ petitioner against the judgment and order dated 27th August 2012 passed by the learned single Judge in C.W.J.C. No. 3572 of 2004.

3. The appellants claim that they are the heirs and legal representatives of one Sardar Malik Singh and that the said Sardar Malik Singh was a refugee in the State of Bihar from Pakistan. The said Sardar Malik Singh was, therefore, entitled to allotment of a piece of land for rehabilitation. His claim was accepted by the Settlement Officer. His claim for such allotment was pending before the concerned authority since 1973-74.

4. In 1995, one Sardar Harbansh Singh, a refugee from Pakistan claimed allotment of land Plot No. 1908 admeasuring 0.11 acres of Village-Dhirachak, P.S. No. 16 in Chitkohra Refugee Colony. His claim was considered in Case. No. 10/1995-96. Under order dated 28th November 2000, made by the Additional

Custodian and Additional Settlement Commissioner, Bihar, the claim of the said Sardar Harbansh Singh was rejected on the premise that he had already been allotted the plot Nos. 21 and 22 in the said Refugee Colony; claim for allotment of the land in question was not sustainable.

5. In answer to the public notice given by the concerned authority, after expiry of the statutory time, the present appellants lodged their claim over the land in question. According to the appellants, they were the heirs and legal representatives of one Sardar Malik Singh and that the said Sardar Malik Singh, being a refugee from Pakistan, was entitled to allotment of land; since passing away of the said Sardar Malik Singh, the said right of allotment had devolved upon the appellants. The claim of the appellants was upheld under the aforesaid order dated 28th November 2000.

6. Feeling aggrieved, the said Sardar Harbansh Singh preferred appeal no. 1/2001 before the Settlement Commissioner, Bihar. The Settlement Commissioner, under his order dated 19th November 2003, rejected the claim for allotment made by the said Sardar Harbansh Singh as well as by the present appellants. The Settlement Commissioner observed that the said Sardar Harbansh Singh had already been allotted Plot Nos. 21 and 22 and he was not entitled to further allotment. In respect of the appellants, the Settlement Commissioner observed that the aforesaid Sardar Malik Singh was not registered as a refugee in the State of Bihar and that the occupation of the appellants on Plot No. 23 in the Refugee Colony was either as a sub-tenant or as a trespasser. In any view of the matter, the said Sardar Malik Singh was not entitled to allotment of land, nor were the appellants entitled to such allotment.

7. The challenge to the said order in above C.W.J.C. No. 3572 of 2004 has failed before the learned single Judge. Therefore, this Appeal.

8. Learned advocate Mr. Tuhin Shankar has appeared for the appellants. He has strenuously urged that the late Sardar Malik Singh was a refugee from Gujranwala in Pakistan and that the appellants, being his heirs and legal representatives, are entitled to allotment. The said Sardar Malik Singh had pursued the claim for rehabilitation since 1973-74 and that at one point of time the concerned authority was also inclined to make allotment in favour of the said Sardar Malik Singh. In support thereof Mr. Tuhin Shankar has relied upon the order of this Court dated 18th February 1977 made in C.W.J.C. No. 26 of 1977.

9. We are afraid, the above referred order dated 18th February 1977 does not tend support to the claim made by the appellants.

10. In view of the aforesaid concurrent finding recorded by the learned single Judge as well as by the authority below, no interference is warranted. Appeal is dismissed in limine.