
(1999) 02 SC CK 0118

In the Supreme Court Of India

Case No : Civil Appeal No. 3035 of 1989

Sharif Mian and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 11-02-1999

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 6, 8
Bihar Land Reforms Rules, 1951 — Rule 8

Citation : (1999) 9 JT 633 : (1999) 6 SCC 37

Hon'ble Judges : S. Saghir Ahmad, J; S. Rajendra Babu, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The case has a chequered litigative history but we pick up the thread from 1973 when the present appellants before us initiated a case for mutation of their names which was rejected by the Anchal Adhikari, Bhabhua. Appeal filed against the aforesaid orders of the Anchal Adhikari was dismissed by the Deputy Commissioner, Land Reforms on 7-5-1976. Thereafter, the appellants filed appeal before the Collector, Rohtak who dismissed the appeal on 22-6-1977. Against that order a revision was filed before the Commissioner, who by his order dated 4-2-1980, allowed the revision and directed that an enquiry be made to ascertain if the land in question was in actual physical possession of the appellants. This order was challenged in the High Court, which by its judgment and order dated 11-9-1985 allowed the writ petition and held that the Commissioner had no jurisdiction to hear and decide the revision filed by the appellants. It is against this order that the present appeal has been filed.

2. Relying upon Section 8 of the Bihar Land Reforms Act, 1950 and Rule 8 framed there under, the High Court held that the Commissioner had no jurisdiction to entertain a revision against the order of the Collector. For that purpose, the High Court relied upon an earlier decision of its own in Baldeo Prasad Sah v. Commr. of Bhagalpur Division 1960 BLJR 19. This decision has

since been Followed by that High Court in another case, namely, Shaikh Gajar Vs. State of Bihar and Others, in which the decision was rendered by Mr. Justice Lalit Mohan Sharma (as his Lordship then was) and it was held that:

The proceedings u/s 6 of the Act are judicial in nature in which rival claims of the litigating parties are determined and unless the law vested in the Commissioner, authority to interfere with the orders passed in the proceedings, the power in this regard cannot be assumed merely for the reason that the Collector is an officer subordinate to the Commissioner... the Commissioner has no jurisdiction either revisionary or otherwise to interfere with the order passed in appeal u/s 8 of the Act (by the Collector).

3. This being the settled law, we are of the view that the High Court was right in allowing the writ petition and setting aside the order passed by the Commissioner.

4. For the reasons stated above, the appeal is dismissed. There shall be no order as to costs.