
(1992) 02 PAT CK 0001

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1923 of 1983

Siya Devi and others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 10-02-1992

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 15(1), 45(B), 5(i)(iii)

Citation : (1992) 2 PLJR 304

Hon'ble Judges : B.K. Roy, J

Bench : Single Bench

Advocate : Shivandan Roy, for the Appellant;

Judgement

Binod Kumar Roy, J.—The four petitioners, namely, (1) Siya Devi, (2) Dharkhan Das, (3) Dasai Das and (4) Dasrath Das, pray to quash the notification dated 4.2.1983/8.2.1983 published u/s 15 (1) of the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the Act) in regard to the lands mentioned in paragraph 2 of the writ petition. The petitioner no. 1 claims to have purchased the lands on 28th January, 1957, 24th July, 1957 and 18th October, 1960, the petitioner no. 2 claims to have purchased the lands on 21st September, 1957 and the petitioner nos. 3 and 4 claim to have purchased the lands on 29th January 1960 and 21st May, 1971, but without stating as to who was their vendor. It has also not been stated as to whether the purchase in question was joint. It has also not been further stated that out of 9 plot numbers, detailed in paragraph 2, which petitioner has purchased which land though it has been asserted that they have got their names mutated and Register-II of the State of Bihar stands in their names and that they are getting receipts also. It has been asserted that the said notification has been made pursuant to a case started against one Most. Dil Kuer, who has not been impleaded as a party-respondent to this writ application, and that no notice was issued to them (the petitioners) of any proceeding u/s 5 (i) (iii) of the Act.

2. Mr. Shivanandan Roy, learned counsel for the petitioners, prays to quash the impugned notification on the grounds, inter-alia, that no notice of the proceeding was ever issued to the petitioners and that the transactions made in their favour before 15.10.1959 cannot be made subject matter of any enquiry u/s 5 (1) (iii) of the Act.

3. However, I am of the view that in the peculiar facts and circumstances, the best course for the petitioners, for the present, is to file a petition u/s 45 (B) of the Act before the Collector, East Champaran (Respondent no. 2) for reopening the proceedings initiated against Most. Dil Kuer, in which the impugned notification (as contained in annexure-1) has been made.

4. I, accordingly, while dismissing this writ application, direct the petitioners to file an application within one month from today before Respondent no. 2 for exclusion of their lands on the grounds which they may consider appropriate. If such an application is filed, status quo in regard to the lands detailed in the said application shall be maintained in view of the fact that at the time of admission of this writ application on 19.5.1983, the Division Bench had passed an order that the lands mentioned in paragraph 2 shall not be settled during the pendency of this writ application. There shall be no order as to costs. Before parting with this judgment, I clarify that I have neither accepted and/or rejected the case of the petitioners on merit, which has to be adjudicated by Respondent no. 2.