
(1984) 01 PAT CK 0027
In the Patna High Court
Case No : CWJC No. 1458 of 1979

Smt. Saraswati Devi

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 14-01-1984

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 33

Citation : (1984) 32 BLJR 326 : (1984) PLJR 284

Hon'ble Judges : Chaudhary Sia Saran Sinha, J; B.P. Jha, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Chaudhary Sia Saran Sinha, J.—The prayer made in this writ application as subsequently amended by petition filed on 10.5.1979, is to quash Annexure-6, an Order dated 8.5.76 of the Land Reforms Deputy Collector (L.R.D.C) passed in Land Ceiling Case No. 424 of 1973-74 started, against one Satya Narain Goit son of the petitioner Smt. Saraswati Devi. The further prayer is to quash Annexure-4, an Order of D.C.L.R. dated 15.7.76 in respect of amalgamation (Sumanjan) of the 2.26 acres of lands mentioned therein.

2. Satya Narain Goit had a step mother also. By Order of the D.C.L.R. dated 16.1.76 (vide Annexure-5) each of his two mothers were allotted one unit, obviously beside one unit allotted to Satya Narain Goit himself. Subsequently by the impugned Annexure-6 dated 8.5.76 the D.C.L.R. amended that order obviously by reviewing the same and instead of following two units to each of the mothers of Satya Narain as the Annexure-5, only one unit was allowed to both the two mothers.

3. The question for decision is a short one, namely whether the D.C.L.R. after passing the order dated 16.1.76 as contained in Annexure-5 had jurisdiction to review the same. The reply must be in the negative. No powers of review are conferred on the revenue Authorities under the Bihar Land Ceiling Act 1961.

Learned Counsel for the State submitted that in view of the provisions of Order 47, Rule 1 C.P.C. the revenue Authorities should be deemed to have such powers. Section 33 of the Bihar Land Ceiling Act 1961 provides that the appellate authority and the Collector shall have the same powers as are vested in a Court under the Code of Civil Procedure; but such powers are applicable only in making inquiries and that too in the four specified cases mentioned therein namely, admission of evidence by affidavits, summoning and enforcing the attendance of any person and examining him on oath; compelling the production of documents and award of costs.

4. If the legislature vests certain powers on the revenue authority as are vested in a Court under the CPC and specifies such powers, no further powers enjoyable by the court under the CPC can be invoked by the revenue Authorities. The submission of the learned Counsel for the State that such powers of review should be inferred in view of the newly added provision of Section 32(A) of the Act is without substance.

5. It is accordingly held that the D.C.L.R. acted illegally in passing the order as contained in Annexure-6 by reviewing the order as contained in Annexure-5,. Annexure-6, is therefore, quashed. Annexure-4 is also hereby quashed to the extent it gives effect to the order as contained in Annexure-6.

6. The writ application is allowed accordingly. In the facts and circumstances of the case there will be no order as to costs of this proceeding and the parties shall bear their own costs.