
(1999) 07 PAT CK 0013
In the Patna High Court
Case No : C.W.J.C. No. 2882 of 1992

Surendra Chaudhary and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-07-1999

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 10(3), 15(1)

Citation : (2000) 1 PLJR 540

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Om Prakash and Uma Shankar, for the Appellant; Ajay Kumar and Mrs. Renu Jha for the Intervenors and M/s Birendra Pd. Verma and M.M. Singh and M/s Syed Arshad Alam and Matloob Rab for the State, for the Respondent

Judgement

N. Pandey, J.—This writ petition has been filed on behalf of 66 petitioners, challenging the decision of the authorities whereby, 120.68 Acres of land were declared surplus in Ceiling Case No. 4 of 1973-74, which was started against respondent no. 7 Chandra Mauli Deo. Admittedly the abovementioned ceiling case was started against respondent no. 7 with respect to 355.82 Acres of land. Out of the said land, as would appear from the averments on record, the land holder disowned 120.68 Acres of land. Taking into consideration the abovementioned facts and other relevant materials, the authorities declared 252 Acres of land surplus and consequent thereto, the final publication and publication u/s 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, in short "the Ceiling Act", were done. The grievance of these 66 petitioners and intervenors, namely, Ram Sagar Singh and others, is that although in the record of rights names of the father and ancestors of some of the petitioners were also mentioned and they were paying rent to the State of Bihar regularly, these lands were declared surplus without any notice. Reference in this regard was made to the ordersheet in Cess Valuation Case No. 91 of 1992 and copy of Register-II to show that even in the year, 1920-21 some

of the lands of Mauza-Masudanpur, P.S. Balia, District Begusarai were recorded in the name of the fathers of the petitioners as raiyats and the amount of rent etc. also was mentioned. The intervenors Ram Sagar Singh and ors also have annexed copy of the order of the Anchal Adhikari in Mutation Case No. 641 of 1976-77 to state that their names were mutated over some of the lands and a Title Suit is also pending with respect to 25 Bighas of land. Reference was also made to Annexure-B, which is a copy of the verification report in the ceiling case, to show that on spot verification and enquiry from the villagers, it was found that these lands were in possession of the villagers of Masudanpur even prior to the vesting of Jamindari. He also found possession of the villagers of Masudanpur over some of the lands.

2. Grievance is inspite of such revenue records in the names of the petitioners' father and intervenors, the authorities proceeded to declare the land surplus without holding any enquiry and extending opportunity to these persons. It is further contended that even from the order of the Additional Collector dated 13.9.1977 passed u/s 10(3) of the Ceiling Act it would appear that as the land holder respondent no. 7 only claimed 121.64 Acres of land and stated that he had no concern with the remaining lands, therefore, according to the Additional Collector, such lands were fit to be declared surplus. Submission is when in Register-II the names of the intervenors and writ petitioners were mentioned and they were also paying rent to the State of Bihar, it was proper for the Additional Collector to get the matter verified by the Anchal Adhikari or through any other agency to find out who was the owner of the land. But in this case simply because the land holder disowned some of the lands, the Additional Collector decided that these lands were surplus.

3. Mr. Verma appearing for the settlees contended that the documents on which the petitioners or the intervenors had relied, are not with respect to the total area of the land. He further contended that the claim of the intervenors on the basis of the mutation order of 1976-77 will have no bearing in such matters. Because even those lands were recorded in their names since purchases of these lands were after 9.9.1970, therefore, such sale deeds had to be ignored as the transactions are void. He further contended that even from the verification report it appears that total 120.68 Acres of lands were found recorded in the name of Savitri Devi the wife of the land holder. Therefore, in law it be deemed that this land belonged to family of which respondent no. 7 was the Karta. It was not necessary for the authorities to get any further verification about the claim of the petitioners. Therefore, in such circumstances the claim of the petitioners should not be entertained at this stage.

4. True it is that these lands were declared surplus in the year, 1978 and Purchas in favour of the settlees were also granted, but this cannot be ignored that from the documents, which have been brought on record, it would appear that the petitioners and intervenors have interest in some of the lands. It may be a different question about the method of acquisition and validity of such

acquisition, but undisputedly the revenue records with respect to these lands are running in the name of the petitioners and intervenors and they have been paying rent to the State of Bihar. Therefore, to my mind the moment the land holder disowned to claim this land, it was proper for the Additional Collector to have a verification from the Anchal Adhikari or any other authority to find out actually who was the real owner.

5. Even the contention of Mr. Verma is accepted that the land can be treated of the family of the land holder in that case also the authority will have to record such finding after giving opportunity to the persons in whose names the lands were recorded in revenue records.

6. Therefore, in my view, this would be in the interest of justice that the matter be examined by the Collector of the District after giving full opportunity to the writ petitioner, intervenors and also the settlees to file relevant documents in support of their grievances. He shall also get an enquiry and spot verification conducted property either himself or through any other competent authority and thereafter, decide the matter after hearing all the parties and pass necessary orders. But I must record that as on 8.6.1992 this Court had restrained the respondents from dispossessing the petitioners until appropriate orders, therefore, the same interim order will continue until final disposal by the Collector. I may also direct that since this is a very old matter, the learned Collector shall see that it is disposed of expeditiously. With the aforesaid directions/observations, this writ application is, thus, disposed of.