
(2007) 04 PAT CK 0005
In the Patna High Court
Case No : CWJC No. 12112 of 2005

Yasmin Nehal and Others

APPELLANT

Vs

The State and Others

RESPONDENT

Date of Decision : 12-04-2007

Acts Referred:

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

Citation : (2007) PLJR 343

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Judgement

Navaniti Pd. Singh, J.—Heard. As contemplated under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, a proceeding was initiated in the then district of Munger being Land Ceiling Case No. 82/1975-76 against one Syed Jamaluddin Ahmad, resident of Muskipur, Sub-division-Khagaria, District-Munger. Pursuant to objection filed, the matter was decided and order passed in terms of Section 10(3) of the Act by the Collector on 4.9.1982. By the said order, apparently, the Collector accepted the transfer made by the land holder in favour of his wife in the year 1945. The wife was divorced in 1956 but the gifts made by the wife from those lands were not accepted as valid. Thereafter adding those lands gifted by the wife to the lands of the land holders, surplus lands were declared and a notification in terms of Section 15(1) was then published on 1.4.1985. Under the said notification declaring and acquiring surplus land to the extent of 211.55 acres was made. It appears that pursuant to the said notification certain purchases were issued distributing the surplus land, as no intimation of any revision or any other proceeding impugning the said order was brought to the notice of the district authority. It appears that one of the donees, gift to whom had been not recognized as valid apart from other, filed revision application before the Board of Revenue, which allowed the revision application with a direction that the lands gifted to the wife by the registered patta of 1945 by the land holder had to be excluded from the

proceedings as against the land holders.

2. It now appears that as a consequence of exclusion of those lands from the records of the said land holder and treating it to be the land of his wife Bibi Ume Kolsum @ Noorjahan Begum, a separate ceiling proceeding was then initiated being Land Ceiling Case No. 1/1987-88 and in those proceedings some lands, which were earlier notified as surplus in the hands of the land holder by notification dated 1.4.85 were again declared surplus, which was then challenged before this court in C.W.J.C. No. 2943 of 1989, which was disposed of by order dated 12.11.1998, which set aside the said second notification u/s 15(1) dated 16.9.1988 and remitted the matter to the Additional Collector (Ceiling), Munger for a fresh decision after hearing the parties.

3. The effect is that first the notification dated 1.4.1985 u/s 15(1) as against the said land holder Syed Jamaluddin Ahmad stood materially altered by order of the Board of Revenue. Subsequently, similarly, the notification issued on 16.9.88 though in respect of some lands treating them lands to be of Bibi Noorjahan was also set aside by this Hon''ble Court but both these proceedings i.e. 82 of 1975-76 and 1 of 1987-88 remain inconclusive and in law both the notification therein issued u/s 15(1) did not attain finality.

4. I may also mention that all the lands which are concerned in the two ceiling proceedings were situated in the subdivision Khagaria of district Munger and the land holder and other also resided therein. Khagaria sub-division was then made into a district and as such in 2002 the records of L.C. Case No. 82/75-76 was then directed to be transferred to the newly formed Khagaria district and it finally surfaced in 2006 and now has been numbered as Land Ceiling Case No. 1/2006-07 in the Land Ceiling Court of Khagaria district as against the land holder.

5. The grievance of the petitioners, who are the children of the original land holder Syed Jamaluddin Ahmad is that consequent to the order dated 4.9.82 and thereafter, the notification dated 1.4.85, to which the petitioners had no knowledge, certain purchas were issued but these proceedings got modified by virtue of revisional order of the Board of Revenue, which order was not given effect to and the notification u/s 15(1) dated 1.4.1985 continued to operate, notwithstanding, it being virtually set aside by the Board of Revenue. This is also sought to be demonstrated by the fact that some lands are covered in both notifications u/s 15(1) i.e. notification dated 1st April, 1985 and notification dated 23.2.1998. In the first notification the lands were treated to be the lands of Syed Jamaluddin Ahmad in the second notification. They were treated to be the lands of Bibi Noorjahan.

6. As noted above, both those notifications lost efficacy because of subsequent orders but purchas were not cancelled nor parcha holders were restrained from disturbing the present writ petitioners-the present land holders. This is what has brought the petitioners to this court.

7. To this court after hearing the parties and perusing the affidavit and counter

affidavit filed, it is clear that the authorities have lost sight of the two cases. The first case against Syed Jamaluddin Ahmad being L.C. Case No. 82/1975-76 as before the ceiling authorities in the district of Munger is now newly numbered as L.C. Case No. 1/2006-07 before district authorities Khagaria and the second case being L.C. Case No. 1/1988-89 as against Bibi Noorjahan remains before the district authorities of Munger. The two proceedings are pending and have not been finally culminated. Whatever may be the effect of the final order that may be passed, this much is sure and certain that the declaration of surplus land as contained in the respective section 15(1) notifications cannot be given effect to and till such time they cannot be given effect to, no purcha could have been issued, much less, seen that they are enforced. As purchas have been issued the consequence would be that the authorities would be well advised to keep the enforcement thereof in abeyance till matters are finally redecided and fresh notification issued. I accordingly direct so.

8. However, I also direct that as purchas have been issued, the purcha holders would be liable to be heard because they are entitled to get some other lands which may also be declared surplus in case the lands for which they were given purchas are held not to be surplus. I accordingly direct.

9. The Collector, Khagaria district would be well advised to see that both the proceedings are taken up and finalised in accordance with the orders of the superior authorities and this court expeditiously so that finality is arrived and different people know of their rights and liabilities as early as possible.

10. With this observation and direction this writ application stands disposed of. Let a copy of this order be given to State counsel for communication to the Collector, Khagaria, for compliance.