

(2015) 01 PAT CK 0096

In the Patna High Court

Case No : LPA No. 54 of 2015 in CWJC No. 15693 of 2014

Yugal Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-01-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 2 PLJR 253

Hon'ble Judges : I.A. Ansari, J;Chakradhari Sharan Singh, J

Bench : Division Bench

Advocate : Ravi Prakash, for the Appellant; P.N. Shahi, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J.

1. The appellant was the writ petitioner in C.W.J.C. No. 15693 of 2014 (Yugal Singh vs. State of Bihar and Ors.) and has preferred the present appeal under Clause 10 of the Letters Patent of Patna High Court, aggrieved by the order of learned Single Judge passed on 23.9.2014, in the aforesaid writ proceeding. The appellant, in the aforesaid writ application, had sought for quashing of the notice for cancellation of Jamabandi. issued by the Court of Additional Collector, Begusarai, dated 16.8.2014, brought on record as Annexure-5 to the writ petition. By the said notice, the appellant, along with some other persons, were asked to be present in the Court of the Additional Collector, Begusarai on 27.8.2014. It was mentioned in the said notice that the Court of Additional Collector had received records from the Sub-Divisional Officer, Begusarai, regarding cancellation of Jamabandi with respect to the land described in the said notice in favour of the appellant and others.

2. From the order under appeal passed by learned Single Judge, it would appear that main challenge of the appellant to the impugned notice, dated 16.8.2014,

issued by the Additional Collector, Begusarai, was on the ground that said notice was not in statutory Form XVI and XVII under Section 13(3) of Bihar Land Mutation Rules, 2012, read with Section 9(1) of Bihar Land Mutation Act, 2011. By the order, which is under appeal, the learned Single Judge dismissed the writ petition of the appellant and others, who were not given notice, by the impugned notice, dated 16.8.2014. Learned Single Judge refused to entertain the writ application on the ground that merely notices were served on the appellant and other persons. In the order under appeal, the learned Single Judge has observed that instead of responding to the impugned notice by submitting their show cause, the appellant has incorrectly approached the High Court under Article 226 of the Constitution of India.

3. We have heard Mr. Rakesh Kumar, learned counsel for the appellant as well as Mr. P.N. Shahi, learned Additional Advocate General-10 on behalf of the Respondents-State of Bihar.

4. Learned counsel for the appellant has vehemently contended that the impugned notice, dated 16.8.2014, having not been issued in prescribed format is void ab initio and no proceeding, for cancellation of Jamabandi, should be allowed to continue on the basis of such notice. He has also argued that the contents of the said notice do not satisfy the fundamental requirements of the principles of natural justice inasmuch as it does not disclose the basis for initiation of a proceeding for cancellation of Jamabandi.

5. In our opinion, the writ application being C.W.J.C. No. 15693 of 2014 filed by the appellant was premature at the stage of issuance of notice by the Court of Additional Collector, Begusarai, and learned Single Judge rightly refused to entertain the writ application at that stage. The appellant could have responded in compliance of the said notice issued by the appropriate authority and could have raised such plea as has been taken by the appellant in the writ application as well as in the present Letters Patent Appeal.

6. Learned counsel for the appellant has also argued that there was no cause of action for issuance of the notice, dated 16.8.2014, inasmuch as there were reports of Anchal Amin in favour of the appellant and other persons. Such contention could not be gone into in a writ proceeding inasmuch as the appellant had ample opportunity to raise his plea before appropriate authority by filing his reply to the impugned notice. We do not find any merit in the appeal and it is accordingly dismissed.