

Krishna Chandra Sahu and anr. Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : May-09-2005

Reported in : [2005(3)JCR165(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 - Sections 15(1)

Appeal No. : CWJC No. 2826 of 1997 (R)

Appellant : Krishna Chandra Sahu and anr.

Respondent : State of Bihar and ors.

Advocate for Def. : H.K. Mehta, Adv.

Advocate for Pet/Ap. : V. Shivnath,; R. Shankar,; B. Kumar and;

Disposition : Petition dismissed

Judgement :

M.Y. Eqbal, J.

1. In this writ application the petitioner has prayed for quashing the final publication made under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

2. Petitioners' case is that against the ex-landlord namely, Maharaja of Jharkhand Raj a ceiling proceeding was initiated under the aforesaid Act being Ceiling case No. 408 of 1973-74 and in the said proceeding final publication was made under Section 15(1) of said Act, illegally declaring the lands of plot No. 2770 and 2771, Khata No. 2 measuring area of 0.39 decimals of the said landlord/land holder. Petitioners' case is that aforesaid land was settled with the petitioner as far back as in 1942 by sada hukwnnama followed by acceptance of salami and grant of rent receipts. The State of Bihar granted rent receipts. Copies of both the hukwnnama and the rent receipts have been annexed as Annexures-2 series to the writ application.

3. The respondent State, in their counter affidavit, have denied and disputed the settlement of land by the ex-landlord in favour of the petitioner by sada huktimnama. The respondents have seriously disputed the genuineness of the hukumnama and the rent receipts. It is stated that after vesting of jamindari under the Bihar Land Reforms Act, the ex-landlord submitted returns and the petitioner was never shown as raiyat in respect of the said plot. It is further stated that petitioner's name was never entered in Register-II, tenants' ledger maintained by the State of Bihar.

4. Learned counsel for the petitioner mainly relied upon the decision of a Division Bench of this Court passed in CWJC No. 184 of 1997 (R) and submitted that in similar circumstances declaration of land under Section 15 (1) of the said Act, has been set aside.

5. I would first like to refer Division Bench Judgement, copy of which has been annexed as Annexure-3 to the writ application. Petitioner's case in the said writ petition was that the land was settled by virtue of hukwnnama and after vesting, the State of Bihar, under Bihar Land Reforms Act, petitioner was accepted as raiyat and his name was recorded in Register-II. Petitioner paid rent to the State of Bihar in respect of the said land. Considering these facts the Division Bench held that declaration of land under Section 15(1) of the said Act, cannot be made without giving any notice to the said raiyati.

6. In the instant case, as noticed above; petitioner is claiming the land on the basis of sada hukwnnama followed by grant of rent receipts by the ex-landlord.

7. If we go through the provisions of the Bihar Land Reforms Act, and also the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, it will appear that after vesting of the estate under the Bihar Land Reforms Act. the ex-landlords were required to submit their returns. In the said return, they were required to show the land which continued in their possession as privileged land. They were also required to show in the return the name of the raiyat in whose favour lands were settled. On the basis of such return Assessment Role were prepared by the State. The raiyats who were found in possession of the land after vesting in view of the said settlement, the land has been recorded as raiyati lands and was required to be entered in Register-II and they were issued rent receipts. This procedure is followed and rent receipt is issued to the raiyats and in such circumstance their claim cannot be denied and the land in their possession as raiyati cannot be declared surplus land in the name of ex-landlord. In this case the petitioners have not produced the correction slip to show that in regular return procedure, mutation was allowed in respect of the aforesaid land in their and rent receipts were issued in their names. I am, therefore, of the opinion that these two plots have ever been recorded in the name of the petitioners. I have therefore no doubt in my mind that the decision of the Division Bench Judgment relied upon by the petitioners cannot and shall not be made, applicable in the instant case.

8. For the aforesaid reasons, I do not find any illegality in declaration/publication made by the respondents declaring the petitioners' land as surplus land under Section 15(1) of the said Act.