

**Prithvi Nath Singh, Vs. the State of Bihar and ors.**

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**Court :** Patna

**Decided On :** Apr-06-2010

**Judge :** V.N. Sinha, J.

**Appellant :** Prithvi Nath Singh, ;suresh Singh Yadav @ Suresh Singh, Both Sons of Late Bhagwan Singh and Sheo Nar

**Respondent :** The State of Bihar and ors.

**Judgement :**

**V.N. Sinha, J.**

1. Heard learned Counsel for the petitioners and the State.

2. Petitioners are the purchaser of 4 acre 77 decimals of land bearing Plot No. 463 appertaining to Khata No. 405 P.S. No. 156 in Village Bhojpur Kadim vide two sale deeds dated 12.7.1994 and 3rd sale deed dated 5.7.1995 executed by Kashi Nath Pathak and Sashi Nath Pathak who had purchased the lands in-question from a trust known as Chhoti Sangat vide sale deed dated 24.5.1967.

3. This writ application has been filed questioning the correctness and legality of the notification published under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (hereinafter referred to as the Act), whereunder the lands in-question have been acquired in the light of the orders of this Court dated 1st November, 1977 passed in C.W.J.C. No. 804 of

1977, Annexure-6.

4. It is submitted on behalf of the petitioners that the aforesaid land was not included in the draft statement published under Section 10(2) of the Act showing the same to be the surplus land of Mahant Madhusudan Das so that Mahant could have had the opportunity to file his objection disputing the claim of the authorities that the land belong to the Mahant and not to the trust Chhoti Sangat. It is also submitted that as the land was not included in the draft statement it could not have been acquired under Section 15(1) of the Act and ought to have been allotted within the unit of the land-holder Mahant Madhusudan Das so as to protect the interest of the purchasers.

5. Learned Counsel for the petitioners with reference to the order dated 20.7.1989, Annexure-1 submits that the said order has been passed without notice to the land-holder as also the purchaser and as the said order has been passed without notice to the land- holder and the purchaser the Gazette notification dated 2.9.1998 issued in compliance thereto should be quashed.

6. Counsel for the State has opposed the prayer. She states that the order dated 20.7.1989, Annexure-1 has been passed after remand of the matter by the High Court under judgment dated 1st November, 1977 passed in C.W.J.C. No. 803, 804 of 1977, Annexure-6 taking into account the further report as also the sale deed executed in favour of Kashi Nath Pathak. In any case if the land holder was aggrieved by the order dated 20.7.1989, Annexure-1 he could have challenged the same by assailing it before the authorities under the Act or before this Court but it appears they are not aggrieved by the said order.

7. In the circumstances, the challenge of the order dated 20.7.1989, Annexure-1 at the instance of the purchaser cannot be entertained. However, before parting with the writ petition I would like to observe that before acquiring the lands in-question under Gazette notification dated 2.9.1998, Annexure-2 the lands in- question should have been included in the unit of the land holder Mahant Madhusudan Das as the transferred lands by the Mahant was required to be included within the option of the land holder For such purpose I permit the petitioners to approach the Honble Minister who has the jurisdiction to direct for reopening of the ceiling case

so as to include the lands in-question within the option exercised by the land-holder. For grant of interim relief petitioners are at liberty to invite the attention of the Honble Minister towards the order dated 11.3.1999 passed in the instant writ case.

8. With the aforesaid observation the writ petition is disposed of.

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