

Patna High Court - Orders

Harendra Mishra vs The State Of Bihar & Ors on 19 April, 2011

IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.15884 of 2010

HARENDRA MISHRA, S/O- LATE MADHAV MISHRA, R/O-
VILLAGE PARWAHA, P.S.- FARBESGANJ, DISTRICT- PURNEA.

Versus

1. THE STATE OF BIHAR
2. THE COLLECTOR, PURNEA, DISTRICT- PURNEA.
3. THE ADDITIONAL COLLECTOR, PURNEA, DISTRICT- PURNEA.
4. THE SUB-DIVISIONAL OFFICER, FARBESGANJ, DISTRICT- PURNEA.
5. THE LAND REFORMS DEPUTY COLLECTOR, FARBESGANJ, DISTRICT- PURNEA.
6. THE CIRCLE OFFICER, FARBESGANJ, DISTRICT- PURNEA.
7. THE ADDITIONAL COLLECTOR, ARARIA, DISTRICT- ARARIA.

For the petitioner : Mr. Ranjan Kumar Jha, Advocate
Mr. Prem Kumar Thakur, Advocate

For the State : Mrs. Kumari Amrita, G.P.-10
Mr. Mithilesh Kr. Upadhyay, A.C. to G.P. 10

9 19.04.2011 In a petition filed under Article 226 of the Constitution of India, the petitioner has prayed for quashing of part/portion of the District Gazette Notification No. 9 dated 30.04.1994 under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (for short "the Act") so far as it relates to the land of the petitioner. It is stated that in the year 1954, family members of the petitioner purchased land in question detailed in paragraph 4 of the writ petition from Sadanand Jha and Jeevanand Jha and thereafter they came in peaceful possession over the said land inasmuch as jamabandi in respect of the purchased land was also created in the name of the purchaser who were paying land rents against receipts issued to them. In Land Ceiling Case No. 83/1972-73, part of the aforesaid land was included. Without issuing notice to the petitioner, the same was declared surplus in the hands of the land holder.

A counter affidavit on behalf of respondent Nos. 7 and 8 have been filed which is on record. In the counter affidavit, the respondents have averred as under in paragraph Nos. 11 and 12:

"(11) That in the matter averred in para no. 10 of the writ application, it is humbly submitted that the order passed by Hon'ble High Court was produced before appellate court as it appears from the case record.

It is further submitted that the S.D.O., Araria, in the light of the order passed by the appellate court heard the ceiling case where in the purchase of Gopal Mishra vide sale deed No. 1778 dated 24.8.1954 was declared legal & genuine and it was directed to delete 6.61 Acres of land from the ceiling case including the plot no. 2608. It is also submitted that out of the total area only 4.46 Acres was declared surplus in mistake which requires to be deleted from the category of surplus land. As it is an error on the part of the record and respondents after getting the information have taken steps for

the denotification of the land declared surplus.

(12) That in the matter raised in paragraph no. 11 it is humbly submitted that the claims of the purchaser land owner were considered and purchase of area of 6.61 Acres was admitted as genuine and it was directed to delete the same from the aforesaid ceiling case. The declaration of 4.46 Acres land as surplus land seems to be an error which requires to be rectified and for this proper steps are being taken for the denotification of the surplus land."

Heard learned counsel for the petitioner and the State.

Learned counsel for the petitioner submits that in view of the statements made in the counter affidavit, it appears that the respondents have realized their mistake and have taken corrective measures. It is submitted that the authorities may be directed to denotify the lands which have already been found wrongly included in the notification issued under Section 15(1) of the Act(Annexure-3).

Having heard the parties, the application is disposed of by the following order:

Let the respondents take appropriate steps in the light of averments made in the counter affidavit and de- notify the lands as soon as possible preferably within 12 weeks from the date of receipt/production of a copy of the order.

(Kishore K. Mandal, J) pkj