

**(2005) 03 PAT CK 0120**

**Patna High Court**

**Case No:** CWJC No. 8142 of 2002

Narsingh Lal Daga and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision:** March 15, 2005

**Acts Referred:**

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

**Citation:** (2005) 2 PLJR 570

**Hon'ble Judges:** Mridula Mishra, J

**Bench:** Single Bench

**Advocate:** Arun Pd. Ambastha, Ravindra Kr. Choudhary and Rupesh Ranjan, for the Appellant; V.K. Bhagat, for the Respondent

**Final Decision:** Allowed

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**Judgement**

@JUDGMENTTAG-ORDER

Mridula Mishra, J.

Heard counsel for the petitioner and counsel appearing for the State. Petitioner has filed this application for quashing the orders dated 3.12.95 alongwith the order passed by Collector, Kishanganj as contained in letter No. 445 dated 14.12.95 whereby Sub-divisional Officer (Respondent No. 4) has been directed to take action u/s 15(1), (2) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, with respect to the land of Khata No. 40 Plot No. 486 measuring an area of 13.46 acres because it was declared surplus in Ceiling Case No. 57/1973-74, by publication of notification u/s 15(1) of the Act in the District Gazette. Further prayer of the petitioner is for quashing the notices dated 18.2.2000 contained in Annexure-8 series whereby the petitioner has been informed that purchase of this land by him is illegal on account of there being notification u/s 15(1) of the Act declaring the land as surplus. Petitioner has. been asked to submit his

show cause, as to why Jamabandi running in his name with respect to the land be not cancelled.

2. The land, which is the subject matter of dispute in the present case, originally belonged to one Radha Mohan Agrawal. Name of Radha Mohan Agrawal was recorded as raiyat in the Khatian. He transferred entire 13.45 acres land of Plot No. 486, Mauza Dheksara through registered sale deed dated 30.3.1962 in favour of Rup Narayan Bagla, who came in possession. After ten years of his purchase, Rup Narayan Bagla transferred the land to one Smt. Pranaya Lata Saha through registered sale deed dated the 8th July, 1972. Her name was duly mutated in the revenue records, rents were paid and receipts were being issued in her name. A land Ceiling Case No. 57 of 1973-74 was started against Sri Radha Mohan Agrawal in which the land of Plot No. 486 Khata No. 40 was also included though the sale deed with respect to this land was executed by Radha Mohan Agrawal in March, 1962 in favour of Rup Narayan Bagla and thereafter Rup Narain Bagla had transferred this land in favour of Mrs. Pranaya Lata Saha. In the Ceiling proceeding this land was declared surplus by a notification published in Purnea District Gazette dated 16.12.1975. Mrs. Pranaya Lata Saha at that point of time filed objection u/s 15(3) of the Act for exclusion of this land from Ceiling proceeding stating that the land has been purchased by her and she is in exclusive possession of the land but it has wrongly been declared surplus. The Sub-divisional Officer, Kishanganj considered the objection filed by Smt. Pranaya Lata Saha and by order dated 8.11.76 decided that the land belongs to Pranaya Lata Saha, it has wrongly been clubbed in the Ceiling proceeding, and it should not be treated as surplus land of the land-holder on the basis of notification published in terms of Section 15(1) of the Act. After 19 years of this order, Pranaya Lata Saha, in the year 1984 executed deed of Ladabinama in favour of her daughter. Ratna Kali Saha, stating that she was an ostensible purchaser of the land and real purchaser is Smt. Ratan Kali Saha, as such she is executing a deed of relinquishment in favour of real purchaser. Ratna Kali Saha, thereafter executed a sale deed in favour of Mrs. Ira Garni on 19.10.92 and Ira Garni through nine registered sale deeds executed in July, 1998 transferred the land in favour of the petitioner. Fact relating to execution of deed of relinquishment by Pranayalata in favour of Ratan Kali Saha, and sale deed executed by Ratan Kali Saha in favour of Ira Garni has not been mentioned in the writ application, simply it has been stated that Pranaya Lata Saha transferred the land in favour of Ira Garni and Ira Garni transferred the lands to the petitioner. By filing supplementary affidavit, this fact has been brought on the record of the case.

3. The petitioner is aggrieved by order contained in Annexure-7 issued by Additional Collector, Purnea, informing the Subdivisional Officer, that restrain put on distribution of surplus land u/s 15(1) has been withdrawn as such he should take steps for distribution of the land of Khata No. 40 Plot No. 481 measuring 13.46 acres, Notices were issued vide Annexure 8 Series whereby the petitioner has been asked to appear before the Circle Officer, Kisanganj with his documents to prove the

genuineness of the transfer of this land in his favour.

4. Submission made by the petitioner's counsel is that once the order has been passed in the year 1976 by the Sub-divisional Officer, Collector under the Act, that land belonged to Pranayalata Saha, and exempted it from ceiling proceeding, now it cannot be re-opened after so many years. The order has become final, as the Respondents had not questioned this order, in case of Nirmala Jha. By a common order the Sub-divisional Officer had allowed the objection u/s 15(3) filed by Pranayalata Saha and Nirmala Jha. When order in Nirmala Jha's case is treated as valid and final, no other view can be and should be taken in case of Pranayalata from whom petitioner's vendor purchased. The respondents cannot interfere with the right, title and possession of the petitioner treating the order passed in the year 1976 as non-existent, specially when this order was not challenged by them.

5. Counsel appearing for the State has admitted that so far the order as contained in Annexure-7 is concerned, is not a valid and proper order, considering the order contained in Annexure-5 i.e. order passed in the year 1976 land cannot be treated as surplus, as order was not challenged and it became final. So far the purchase made by the petitioner from the Garni is concerned, that can be questioned, as no title passed through a deed of relinquishment. The deed of relinquishment executed by Pranaya Lata Saha did not confer right, title and interest in favour of Ratan Kali Saha. No title has been conferred to Ratan Kali Saha, all subsequent transfers are void. Neither Ira Garni, nor the petitioner got transferred any right, title and interest in their favour on the basis of subsequent transfers. Considering the fact that petitioner has no valid title, Jamabandi created in this favour is also not valid and rightly it has been questioned by the impugned order. The petitioner has rightly been issued notices by the Circle Officer questioning genuineness of his sale deed and validity of Jamabandi created in his favour. The Circle Officer has simply asked the petitioner to appear before him and to produce his documents for its consideration and passing an order. Petitioner has no case for issuance of writ in his favour. Petitioner should be asked to file his show cause before Sub-divisional Officer.

6. Considering the statements made by the counsel I find that the order dated 8.11.76 (Annexure-5) was passed by the then Sub-divisional Officer, Kishanganj on consideration of the sale deed in favour of Pranaya Lata Saha. At the relevant time a valid sale deed was existing in the name of Pranaya Lata Saha. Her name was also mutated with respect to those lands which were transferred to her by her vendor through a registered deed of sale. The land was transferred to the Vendor of Pranaya Lata Saha in the year 1962 itself by the landlord. Ceiling proceeding was initiated in the year 1973-74, more than 10-12 years of transfer of land by Radha Mohan Agrawal to Rup Narayan Bagla. In the year 1973-74 when Ceiling proceeding was initiated it was not the land of land-holder and it could not have been declared surplus of land holder. In this circumstance, the respondent authorities cannot

re-open to test the validity of order dated 8.11.76 (Annexure-5) passed in favour of Pranayalata Saha in Ceiling Case No. 57/74. Accordingly, order contained in Annexure-7 series is quashed.

7. So far, issuance of notices (Annexure 8 Series are concerned, it is totally an independent matter, having no concern with ceiling case. The notices issued, challenging the creation of Jamabandi in the name of petitioner, on the ground that no title has passed to him as his vendor and in turn his vendor's vendor, were not conferred any title on the basis of sale deed executed by Ratan Kali Saha is beyond the jurisdiction of Revenue authorities. Unless all these sale deeds are declared void by a Civil Court, it cannot be cancelled by the Revenue authority. These sale deeds cannot be annulled by the Ceiling authority because these sale deeds have been executed subsequently when already order dated 8.11.76, was passed by the S.D.O., holding that land belonged to Pranayalata Saha. Since order dated 8.11.76 was not challenged by the State for so many years, now it cannot be ignored on this ground that Sub-divisional Officer had no jurisdiction to pass any order u/s 15(3) of the Ceiling Act. Any order, may it be right or wrong, if remained unchallenged, becomes final and that cannot be ignored. The Circle Officer, has issued notice to the petitioners, exceeding jurisdiction as validity of sale deed cannot be examined by him.

8. Considering the facts and circumstances of the case both the Annexures contained in Annexures-7 and 8 Series are hereby quashed.

9. Accordingly, this application is allowed. Let a copy of this order be handed over to the Learned Counsel appearing for the State.