(2010) 08 PAT CK 0187

Patna High Court

Case No: CWJC No. 4644 of 2003

Renuka Devi Gupta		APPELLANT
	Vs	
The State of Bihar and Others		RESPONDENT

Date of Decision: Aug. 23, 2010

Acts Referred:

- Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 - Section 15(1), 22(1)

Citation: (2011) 1 PLJR 492

Hon'ble Judges: Sheema Ali Khan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Sheema Ali Khan, J.

This writ application has been filed challenging the order dated 20.12.2002 passed by the Collector, Sitamarhi.

2. The facts are that Renuka Devi, wife of late Ram Narayan Gupta filed an application u/s 22(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (hereinafter referred to as the Act) by which her claim is that her husband and she, were the bataidars of the ex-landlord with respect to khata No. 137, plot No. 529, measuring 0.34 decimals. The Collector on the application filed by the Petitioner ordered an enquiry by the Circle Officer. The Circle Officer in his report as contained in Annexure-A to the supplementary affidavit, has stated that the lands in question have been distributed to the purcha-holders and it is also reported by the Circle Officer that the lands in question were declared to be surplus land of the landholder as far back as in the year 1985.

3. Learned Counsel for the Petitioner submits that the Circle Officer was required to make an enquiry as to whether the Petitioner''s husband and the Petitioner were the bataidars of the ex-landlord. It is submitted that in fact no such report was given by the Circle Officer, rather he gave a report stating that the lands may be handed over to Respondent No. 7.

4. On examining Annexure-1, which is the application filed on behalf of the Petitioner, it reveals that the Petitioner has stated that due to lack of knowledge, the Petitioner could not know about the issuance of notification u/s 15(1) of the Act in Land Acquisition Case No. 8 of 1973-74. It is said that the lands given in batai has been acquired as surplus lands. On coming to know about the notification from the villagers and the Halka Karamchari, she has filed this application u/s 22(1) of the Act. It is obvious that the objection was filed u/s 22(1) of the Act without stating, whether the lands in question have been distributed or not.

5. The specific case of Respondent No. 7 is that the husband of the Petitioner and the Petitioner were never bataidars of the ex-landlord as the Petitioner''s husband was a Government servant working as a Teacher in a Government School outside the village, whereas the father-in-law was the Postmaster and after the death of the Petitioner''s husband, her son Rajeev Kumar Gupta was appointed as a Teacher on the compassionate ground. This fact is not denied by the Petitioner. If the Petitioner''s husband was working as a Teacher in a Government School, it can hardly be believed that he was cultivating the lands of the landholder as a bataidar.

6. Section 22(1) of the Act provides that an application may be filed by the under-raiyat with respect to the land which has been declared as surplus in a land ceiling proceeding within a period of 90 days. Obviously, it means 90 days from the date of knowledge. In the present case, there is no pleading that the Petitioner learnt on particular date that the lands were being handed over to Respondent No. 7, and therefore, rushed to the Collector and filed her objections. The date of knowledge of the lands in question being declared surplus is not mentioned anywhere either before the Collector or before this Court.

7. In the facts of this case, I find that it is not a fit case where the Court should exercise its jurisdiction by issuing an order of mandamus to the Collector to hear the Petitioner u/s 22(1) of the Act.

8. In the result, this application is dismissed.