

State of Bihar and Others

Vs

Mahanth Balram Das

Civil Appeal No. 7768 of 1996

(K. Ramaswamy, G.B. Pattanaik JJ)

22.04.1996

JUDGMENT

1. Leave granted.
2. We have heard learned counsel for both the parties.
3. Proceedings were initiated under Section 10 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act 12 of 1962) (for short, 'the Act'). The notification under Section 10(1) of the Act is required to be prepared by the Collector on the basis of the information obtained by the Collector regarding the land held under Sections 6, 8 and 9 or Information had by the Collector under Section 7. The Collector shall cause a draftstatement to be prepared issuing the particulars enumerated thereunder. The draft statement shall be published in the Official Gazette of the district and such other places enumerated under the rules. Objections received therein under subsection (3) are required to be disposed of. Under Section 11, he has to make the final publication of the draft statement in the manner prescribed thereunder. Against the final statement, an appeal, revision or review etc. has been provided in the Act. In 1982, the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act was made. Under Section 32-A, the pending appeals, revision, review or reference other than those arising out of orders passed under Section 8 or sub-section (3) of Section 16 pending before any authority shall abate. Upon amendment, under the proviso thereunder, the Collector shall proceed with the case afresh in accordance with the provisions of Section 10. Similarly: Section 32-B also envisages fresh proceedings contemplated by Section II of the Act. It would thus be clear that, in spite of any matter having become final or matter pending by operation of Sections 32-A and 32-B, all the proceedings stand abated. Consequently, the Collector has to prepare the draft statement required under Section 10 afresh and get it published as per law inviting objections from the landholders and then proceed under subsection (3) of Section 10. In view of this admitted legal position, the view taken by the High Court in CWJC No. 8237 of 1992 dated 15-12-1992 is not correct in law.
4. The appeal is accordingly allowed. The order of the High Court is set aside. It would be open to the Collector to take action afresh in accordance with Section 10 and proceed with the matter according to law. No costs.