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STATE OF BIHAR AND ORS.

v.

MAHANTH BALRAM DAS

APRIL 22, 1996

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[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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*Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961/Amendment Act, 1982 : Sections 6, 7, 8, 9, 10, 11, 32-A, 32-B—Held, inspite of any matter having become final or pending, it stands abated—Consequently the Collector has to prepare the draft statement required under S.10 afresh and get it published inviting objections from landlord and then proceed under sub-section (3) of S.10.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7768 of 1996.

From the Judgment and Order dated 15.12.92 of the Patna High Court in C.W.J.C. No. 8237 of 1992.

B.P. Singh for the Appellants.

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A. Sharan for the Respondent.

The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel for both the parties.

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Proceedings were initiated under Section 10 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962) (for short, the 'Act'). The notification under Section 10(1) of the Act is required to be prepared by Collector on the basis of the information obtained by the Collector regarding the land held under Section 6, 8 and 9 or information had by the Collector under Section 7. The Collector shall cause a draft statement to be prepared issuing the particulars enumerated thereunder. The draft statement shall be published in the official Gazette of the district and such other place enumerated under rules. Objections received therein under sub-Section (3) are re-

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quired 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) or sub-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 11 of the Act. It would thus be clear that, in spite of any matter having become final or matter pending by operation of Section 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 land-holders and then proceed under sub- section (3) of Section 10. In view of this admitted legal position, the view taken by the High Court in C.W.J.C. No. 8237/92 dated December 15, 1992 is not correct in law.

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.

G.N.

Appeal allowed.