

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12023 of 1992

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Ramjee Singh, son of late Nidhi Singh, Resident of village Pithwaiyan, Police Station Dinara, District Rohtas

.... Petitioner/s

Versus

1. State of Bihar
2. Director, Consolidation, Bihar, Patna
3. Deputy Director Consolidation, Bihar, Patna
4. Consolidation Officer, Dinara, P.S. Dinara, Distt. Rohtas
5. Triveni Dubey
6. Kanhaiya Dubey
7. Raghubir Dubey
8. Baijnath Dubey

All sons of Late Dhani Ram Dubey, All residents of village + PO Doiyan, Police Station Dinara, District Rohtas

9. (A) Mosmtt. Amanta Kuer wife of deceased
- (B) Subhash Singh
- (C) Dinesh Singh
- (D) Umesh Singh, (B) to (C) all sons of deceased
- (E) Ashmuni Devi, wife of Bansh Narain Singh
- (F) Aspati Devi, wife of Manoj Singh
- (G) Lakhmuni Devi, wife of Prabhakar Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Kumar
For Respondent No.9: Mr. Sudama Singh &
Mr. Rajni Kant Singh
For the State : Mr. Purnendu Singh, GP-27

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 30-04-2015

1. A supplementary affidavit on behalf of the Principal Secretary, Revenue Land Reforms, Government of Bihar has been filed in the light of the order of this Court dated 16.4.2015. Let it be kept on record.

2. Learned counsel for the petitioner submits that he intends to avail the remedy before the Bihar Land Tribunal constituted under the Bihar Land Tribunal Act, 2009. He has drawn my attention to Section 15 of the Bihar Land Tribunal Act, 2009 (Hereinafter referred to the as the Act).

3. Learned counsel appearing on behalf of the petitioner has submitted that in view of the nature of dispute involved, the Tribunal is an alternative and efficacious remedy and in exercise of power under proviso to Section-15 of the Act, the matter should also be transferred to the Tribunal. He has urged that the records of the present proceeding can be transferred by this Court exercising discretion under proviso to section 15 of the Act.

4. Learned counsel appearing on behalf of the respondents, on the other hand, has submitted that there is no merit in the present writ application. He, however, has no objection if the present dispute pending adjudication before this Court is remitted to the Tribunal.

5. Section 15 of the Act reads as under:-

“15. Transfer of proceedings pending in Patna High Court/State Government to the Tribunal.- All cases connected with the

Acts/manuals dealt with under Section 9 of this Act and pending in the High Court of Judicature at Patna but excluding writ petitions filed under Articles 226 and 227 of the Constitution of India and cases pending with the State Government, immediately before the commencement of this Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of this Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement.

Provided further it shall be open to the High Court of Judicature at Patna to remit the dispute pending adjudication in any writ proceeding before it for adjudication by the Tribunal."

6. Section 15 of the Act requires transfer of all cases connected with the Acts/Manuals dealt with under Section 9 of the Act; matters pending in this Court but excluding writ petition filed under Articles 226 and 227 of the Constitution of India; cases pending with the State Government, immediately before the commencement of the Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of the Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement.

7. Section 9 of the Act, which deals with the

jurisdiction of the Tribunal reads thus:-

“Section 9:- Powers of the Tribunal.-(1) The Tribunal shall have the power to entertain any application against the final order passed by the Appropriate Authorities under the Acts/Manuals, mentioned below, within 90 days of such an order provided no other forum of appeal or revision against the order passed is provided in that Act/Manuals:

- (i) The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961
- (ii) The Bihar Land Reforms Act, 1950
- (iii) The Bihar Tenancy Act, 1885
- (iv) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956
- (v) The Bihar Tenants' Holdings (Maintenance of Records) Act, 1973
- (vi) The Bihar Bhoodan Yagna Act, 1954
- (vii) The Bihar Privileged Persons Homestead Tenancy Act, 1947
- (viii) The Bihar Government Estates Manual, 1953
- (ix) The Bihar Settlement Manual.

It shall be open to the State Government to add or remove any Law/Manual in or from the list hereinafore mentioned.

(2) In addition, Tribunal shall decide any case transferred to it by the Government of Bihar or by the Hon'ble High Court of Judicature at Patna with regard to any other revenue or land reforms Law/Manual for the time being in force.

(3) The Tribunal shall have powers vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908)

including the power to recommend to punish for Contempt of Act.”

8. Proviso to Section 15 of the Act, as would be evident, however, confers discretion upon the High Court to remit the dispute pending adjudication in any writ proceeding before the High Court for adjudication by the Tribunal. This discretion in my opinion does not mean that this High Court will be transferring the writ petition itself filed under Articles 226 and 227 of the Constitution of India to the Tribunal. It confers discretion upon High Court to remit the dispute involved in a pending writ proceeding to the Tribunal.

9. In the present proceeding an order passed by the Director, Consolidation, Bihar, Patna dated 22.6.1992 passed under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 is under challenge. By the said order, the Director, Consolidation, Bihar, Patna has reversed the order of the Deputy Director, Consolidation, Rohtas at Sasaram, by which the Deputy Director, Consolidation, Rohtas had affirmed the order of the Consolidation Officer, Dinara.

10. In view of the submission as above, the dispute as regards the validity of the order of the Director, Consolidation, Bihar, Patna dated 22.6.1992 passed in Revision Case No.937 of 1988 is remitted to the Bihar Land Tribunal, Patna.

11. It will be open to the petitioner to approach the Tribunal by filing appropriate application challenging the order of the Director, Consolidation, Bihar, Patna dated 22.6.1992 (supra). If he does so within a period of six weeks from today along with relevant documents as may be advised, the Tribunal may proceed further to finally adjudicate upon the dispute.

12. It will be open to the petitioner to bring before the Tribunal all documents including the copies of the writ application and other pleadings filed in this Case.

13. This application stands disposed of accordingly.

ArunKumar/-

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(Chakradhari Sharan Singh, J)