

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.564 of 2014

IN

Civil Writ Jurisdiction Case No. 20751 of 2012

- =====
1. Kahalgaon Prakhand Matasyajivi Sahyog Samiti Ltd. Kagzitola, Kahalgaon through its Ad-Hoc Secretary, Dasrath Sahni, S/o- Lallo Sahni, R/o Vill- Kagzi Tola, Kahalgaon, P.O. + P.S.- Kahal Gaon, Dist- Bhagalpur
 2. Dasrath Sahni, S/o- Lalo Sahni, R/O Vill- Kagzi Tolla, Kahalgaon, P.O. + P.S.- Kahalgaon, Dist- Bhagalpur

.... Appellants

Versus

1. The State of Bihar through Secretary Co-Operative Department, Bihar, Patna
2. The Registrar, Co-Operative Societies, Bihar, Patna
3. The District Co-Operative Officer, Bhagalpur
4. The Assistant Registrar, Co-Operative Societies, Bhagalpur
5. Girendra Mahaldar, S/o Late Jhapati Mahaldar, P.S.- Rashalpur, Dist- Bhagalpur
6. Bhol Sar Matasyajivi Swablambi Sahkari Samiti Ltd. through its Ex-Chief Executive Raj-Guru Bhai, S/o Shiya Ram Singh, R/o Vill- Bholsar, P.S.- Rasalpur, Dist- Bhagalpur
7. Uday Rampur Kodwar Matasyajivi Swablambi Sahkari Samiti Ltd. through its Ex-Chairman Gokhul Mahaldar, S/o Late Ishwar Mahaldar, R/o Vill- Uday Rampur, Kodwar, P.S.- Ghogha, Dist- Bhagalpur
8. Raj Kumar Sahni, S/o Late Ramu Sahni, Ex- Chairman of Matasyajivi Swablambi Society, Kagzi Tolla, Kahalgaon

.... Respondents

with

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Letters Patent Appeal No. 552 of 2014

IN

Civil Writ Jurisdiction Case No. 21873 of 2012

- =====
1. Arun Mahalar S/o Late Kartik Mahaldar, R/o Vill. + P.O. Siyan, P.S. Kahalgaon,

Distt. - Bhagalpur, Ex - Secretary of Kahalgaon Prakhanda Matasyajivi Sahyog Samiti Ltd. Kahalgaon

2. Girdhari Mahaldar S/o Sri Dev Narayan Singh R/o Vill. - Harchandpur, P.O. Barani, P.S. Kahalgaon, Distt. - Bhagalpur

3. Arun Mahaldar S/o Late Jugal Mahaldar, R/o Vill.- Lalapur, P.S. Antichak, P.O. Bhawanipur, Distt. - Bhagalpur

4. Dinesh Mahaldar, S/o Hital Mahaldar, R/o Vill. - Paschim Tola, Bholsar, P.S. - Kahalgaon, P.O. Ekchari, Distt. Bhagalpur

5. Kisto Singh, S/o Sri Dhusari Singh, R/o Vill. - Gaughatta, P.O. + P.S. Budhuchak, Distt. - Bhagalpur

6. Niranjana Singh, S/o Sri Basudev Singh, R/o Vill. - Mohanpur Gaughatta, P.O. + P.S. Budhuchak, Distt. - Bhagalpur

7. Shukdev Mahaldar S/o Sri Hirman Mahaldar, R/o Vill. - Udayrampur, P.O. + P.S. - Ghogha, Distt. - Bhagalpur

8. Dipak Mandal, S/o Sri Sukhdev Mandal, R/o Vill. + P.O. - Dhanaura, Distt. - Bhagalpur

9. Bajrangi Mandal, S/o Late Khulo Mandal, R/o Vill. + P.O. - Channo, P.S. Rasalpur, Distt. - Bhagalpur

.... Appellants

Versus

1. The State Of Bihar

2. The Bihar State Election Authority through its Secretary, Bihar, Patna, Bairrak No. 11, Old Secretariat, Patna

3. The Registrar, Co - Operative Societies, Bihar, Patna

4. The Collector, Bhagalpur

5. The District Fisheries Officer Cum Chief Executive Officer, Bhagalpur

6. The Election Officer (Co - Operative Societies) Cum The Block Development Officer, Kahalgaon, Distt. - Bhagalpur

7. Girendra Mahaldar, S/o Late Jhapti Mahaldar, R/O Vill. + P.O. Ekchari, P.S. Rasalpur, Distt. - Bhagalpur

8. Kahalgaon Prakhanda Matasyajivi Samiti Ltd., Kahalgaon Block, Bhagalpur through its Chairman Dasrath Choudhary, S/o Lalji Choudhary, R/o Vill. - Khoja Dhanaura, P.S. Rasalpur, Distt. - Bhagalpur

9. Sanjay Mahaldar, S/o Sugrib Mahaldar, R/o Vill. - Bholsar, P.S. Rasalpur, P.O.

Ekchari, Distt. - Bhagalpur

10. Pappu Mahaldar, S/o Sri Ganga Mahaldar, R/o Vill. - Harchandpur, P.S.

Kahalgaon, P.O. Baraini, Distt. - Bhagalpur

11. Puchai Sahni, S/o Sitabi Sahami R/O Vill. - Oriyap, P.S. Antichak, P.O. Kasri,
Distt. - Bhagalpur

12. Rasik Lal Mahaldar, S/o Hira Lal Mahaldar, R/o Vill. - Naya Tolla Bholsar,
P.S. Rasalpur, P.O. Ekchari, Distt. - Bhagalpur

.... Respondents....Respondents

Appearance :

(In LPA No. 564 of 2014)

(In LPA No.552 of 2014)

For the Appellant/s : Shri Subodh Kumar, Adv.
Shri Pasupati Pd. Singh, Adv.

For the Respondent/s : Shri Ajay, Adv.
Smt. Mahasweta Chatterjee, Adv.
Shri Rakesh Kumar Jha, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-04-2015

These two appeals are preferred against the common order dated 12.11.2013, passed by the Learned Single Judge in C.W.J.C. No.20751/12 and 21873/12. The appellants are the writ petitioners. They challenged the order dated 4.10.2012, passed by the Registrar, Cooperatives. The Registrar, in turn, has set aside the order dated 14.9.2011 passed by the District Co-operative Officer. The learned single Judge has set aside both the orders referred to above and directed that steps be taken afresh,

for amalgamation of the societies.

Prior to amalgamation, there existed four Government Fishermen Societies in different areas of operation in the Kahalgaon Block of Bhagalpur District. All of them are governed by the Bihar Cooperative Societies Act, 1935 (for short the Act). The legislature amended Section 8 of the Act by adding Sub-Section (1)(b) which is to the effect that there shall be only one registered Fishermen Cooperative Society in a Block with its area of operation extending over the whole geographical area in the Block. Amendment was also carried out by adding Section 11-B, which directed that all the Fishermen Cooperative Societies within the geographical limits of the Block shall stand merged into one Cooperative Society and shall be deemed to be registered as New Cooperative Society under the Act; and that the Registrar shall issue the registration certificate.

The District Cooperative Officer passed an order directing merger of only two societies in the Block. He omitted the other two societies, on the ground that they are non-functional. The contesting respondents herein filed an Appeal before the Registrar, who, in turn, called for the records and took the view that the order passed by the



District Cooperative Officer cannot be sustained in law. However, he took the view that such of the societies as have been registered by the District Cooperative Officer cannot be merged, because such registration is invalid. Feeling aggrieved by that, the appellants herein filed the writ petitions. Learned single Judge has taken the view that the order of the Registrar, insofar as it has taken the view that the societies which were registered by the District Cooperative Officer cannot be merged, is opposed to law. It was also held that the view taken by the District Cooperative Officer that the non-functional societies cannot be merged, is equally unsustainable. It is under these circumstances that the present writ appeals are filed.

Heard, Shri Subodh Kumar and Shri Pasupati Pd. Singh, learned counsel for the appellants, and Shri Ajay, Smt. Mahasweta Chatterjee and Shri Rakesh Kumar Jha, learned counsel for the respondents.

The principal contention urged by the learned counsel for the appellants is that the two societies that were merged are functioning only at Panchayat level and the mandate under Section 8(1)(b) or Section 11(B) of the Act is only about merger of the societies, at Block level. However, the language of the said provisions does not

support this contention. The Legislature intended that all the Fishermen Societies that are functioning within a Block must be brought under one roof and such a society, after merger, shall cover the entire geographical area of the Block. The relevant provisions read as under:

“8 (Ib): Notwithstanding anything contrary contained in Bihar Co-operative Societies Act, 1935 or any other Bihar Act or Rules framed thereunder or bye-laws of a Co-operative Society or class of Co-operative Societies or any order issued by the State Government or Registrar of Co-operative Societies, there shall be only one registered Fishermen Co-operative Society in a Block with its area of operation extending over the whole Geographical limit of the Block.

11B: Notwithstanding anything contrary contained in any provision of Bihar Act VI of 1935 or any other Act, Rules made thereunder and Bye-laws of a registered Co-operative Society or class of Co-operative Societies, any order issued by the State Government or Registrar, Co-operative Societies, all existing Fishermen Co-operative Societies at block level, area of operation being confined to the Geographical limit of the Block shall stand merged in one Co-operative Society and shall be deemed to be registered as a new Co-operative Society under Bihar Act VI of 1935, and the Registrar, Co-operative Societies shall issue registration certificate:

Provided that on such reorganisation, all members of the existing Co-operative Society under Bihar Act VI of 1935 or Bihar Self Supporting Co-operative Societies Act, 1996 shall be deemed to have become members of such reorganized Society and shall have all rights and liabilities as members of the said Society:

Provided further that on such reorganisation, for managing the affairs of the new Society and all such affiliating Societies of which the Fishermen Co-operative Society is a member, the Registrar/Government shall constitute an *ad hoc* Managing Committee for a period not exceeding one year, within which the new Managing Committee

shall be constituted after elections.”

Added to that, there is no provision in the Act or the Rules which treats the societies at Panchayat level, as a separate category.

Viewed from any angle, we find no merit in these Appeals. They are accordingly, dismissed.

It is brought to our notice that despite the direction issued by the learned single Judge for conducting elections to a single society covering the entire Block, they have not been conducted so far. If it is so, the concerned officials shall ensure that the elections are conducted within two months from today.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-
N.A.F.R.

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