

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5660 of 2015

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Prem Chandra Jha & Ors

.... Petitioner/s

Versus

Akbali Jha & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

2 18-03-2016 1. Heard the learned counsel, Mr. Uma Shankar Singh, for the petitioner.

2. This application is heard treating an application under Article 227 of the Constitution of India. The petitioner has filed this application for setting aside the order dated 28.01.2015 passed in Title Suit No.20 of 2005 by Sub Judge II, Benipur whereby the Court below held that the application filed by the defendant petitioner for deciding preliminary issue regarding the bar under Section 43 of the Bihar Land Reforms (Fixation of Ceiling, Area and Acquisition of Surplus Land) Act, 1961 at the time of hearing.

3. Perused the order passed by the Court below. Perused the plaint also which has been annexed with this writ application. The plaintiff has filed the suit for declaration of title and for declaration that the orders passed by the Addl. Collector and the

other authorities under the Bihar Land Reforms (Fixation of Ceiling, Area and Acquisition of Surplus Land) Act, 1961 are without jurisdiction, void, illegal and not binding on the plaintiff.

4. The Hon'ble Supreme Court in the case of ***Ramesh Gobindram Vs. Sugra Humayun Mirza Wakf A.I.R. 2010 SC 2897***, has held that '**the jurisdiction of Civil Courts to try suits of civil nature is very expansive. Any statute which excludes such jurisdiction is, therefore, an exception to the general rule that all disputes shall be triable by Civil Court. Any such exceptions cannot be readily inferred by the Courts. The Court would, lean in favour of a construction that would uphold the retention of jurisdiction of the Civil Courts and shifts the onus of proof to the party that asserts that Civil Court's jurisdiction is ousted. Even if statute grant finality to issue of Tribunal it has to be considered whether Tribunal has jurisdiction to grant relief which the Civil Court would not normally grant**'.

5. In the present case, so far the declaration of title which the plaintiff has claimed cannot and could not have been granted by the authorities under the Land Ceiling Act. Therefore, the Court below has rightly passed the order. In my opinion,

therefore, no case for interference in supervisory jurisdiction is made out.

6. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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