

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18643 of 2011

With
Interlocutory Application No.5490 of 2013
And
Interlocutory Application No. 290 of 2014

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1. Krishna Murari Singh S/O Sri Mangla Prasad Singh R/O - Narayanpur (Daffi) B.H.U. Varanasi
 2. Shiva Prasad Singh S/O Late Kapildeo Singh R/O - C-13/25, Aurangabad, Ps. - Chaitganj, Distt.-Varanasi

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Department, Govt. of India, Patna
2. Member , Board of Revenue, Bihar, Patna
3. The Collector, Kaimur , Bhabhua
4. The Additional Collector, (Ceiling), Kaimur , Bhabhua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kr. Dubey, Adv.
Mr. Parth Gaurav, Adv.
For the Respondent/s : Mr. Subodh Kumar, AC to G.P. 14
For the Intervenors : Mr. Ravi Shankar Sahay, Adv.
Mr. Ajay Nandan Sahay

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 15-07-2016 Heard the parties.

The petitioners are aggrieved by the order dated 26.07.2011 passed in Revision Case No. 26 of 2007 by the respondent Member, Board of Revenue, Bihar, Patna, as contained in Annexure-15 to the writ petition, whereby aforesaid revision case filed on behalf of the petitioners under the provisions of The Bihar Land Reforms (Fixation of Area and Acquisition of Surplus Land) Act, 1961 has been dismissed.

At the very out-set, the learned State counsel appearing on behalf of the respondents, apart from merits, has raised the question of maintainability of the writ petition at this stage on the ground of alternative remedy available to the petitioners before the learned Bihar Land Tribunal, Patna.

I.A. No. 5490 of 2013 and I.A. No.290 of 2014 have been filed on behalf of the intervenors raising their claims that the lands in question are in their possession, yet they have not been impleaded as party respondents in the present writ petition. They have prayed for their impleadment as party respondents in the present proceeding.

Without going on the merits of the claims of the parties, this Court is of the opinion that against the order impugned the petitioners have an alternative and efficacious remedy before the learned Bihar Land Tribunal, Patna in view of the provisions contained in Section 9 of The Bihar Land Tribunal ACT, 2009. Apparently, several disputed questions of facts have been raised by the parties in the present proceeding.

It is well settled principles of law that the issues of facts must be raised and conclusively decided by the statutory authorities and only thereafter powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioners to approach the learned Bihar Land Tribunal, Patna for grant of appropriate relief(s) with respect to the lands in question as also the order impugned.

It goes without saying that before the learned Bihar

Land Tribunal, Patna, all the necessary persons including the intervenors, as also the land holders and the parcha holders, if any, shall be impleaded as party respondents.

I.A. No. 5490 of 2013 and I.A. No.290 of 2014 also stand disposed of accordingly.

(Birendra Prasad Verma, J)

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