

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.764 of 2016

In

Civil Writ Jurisdiction Case No. 14801 of 2012

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1. Md. Kamran Khursid, Son of Late Md. Khursid.
 2. Md. Kashan Khursid, So of Late Md. Khursid. Both Resident of Village + P.O.- Kashimpur, P.S.- Goradih, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Bhagalpur.
3. The Collector, Bhagalpur.
4. The Deputy Collector, Land Reforms, Bhagalpur Sadar.
5. Bhairo Yadav, Son of Late Kapuri Yadav, Resident of Village- Kasari, P.S.- Antichak (Kahalgaoon), District- Bhagalpur.
6. Bibi Noor Jahan, Wife of Late Noor Mohammad, Resident of Village- Kashimpur, P.S.- Jagdishpur, At present village-Fatehpur, P.S. Sabour, District- Bhagalpur.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Adv.

For the Opp. Party Nos. 1 to 4: Mr. P.K. Singh, AC to G.P. 10

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 28-09-2016

Heard.

The present M.J.C. application has been filed on behalf of the original writ petitioners seeking restoration of CWJC No. 14801 of 2012, which stood dismissed for want of prosecution by the order dated 1.10.2015.

The learned counsel appearing on behalf of the petitioners submits that the aforesaid CWJC No. 14801 of 2012 was filed on behalf of the petitioners assailing the validity and correctness of the order dated 30.3.2012 passed in Revenue Revision (Land Ceiling) Case No. 3 of 2011-12 by the Divisional Commissioner, Bhagalpur, as contained in Annexure-4 to the aforesaid writ petition. He further submits that against the



impugned revisional order, the petitioners have an alternative remedy before the learned Bihar Land Tribunal, Patna, but on a bonafide legal advice, the aforesaid writ petition was filed on behalf of the petitioners. He, therefore, contends that instead of restoring the writ petition, liberty may be granted to the petitioners to approach the learned Bihar Land Tribunal, Patna for grant of appropriate relief to them with respect to the lands in question as also the order impugned of the writ petition.

The learned State counsel appearing on behalf of the opposite party nos. 1 to 4 does not raise any objection to the aforesaid prayer made on behalf of the petitioners.

In the considered opinion of this Court, against the order dated 30.3.2012 passed by the Divisional Commissioner, Bhagalpur, as contained in Annexure-4 to the original writ petition, the petitioners have an alternative remedy before the learned Bihar Land Tribunal, Patna, in view of the provisions contained in Section 9 of The Bihar Land Tribunal Act, 2009 and the writ petition, at that stage, was not maintainable.

In above view of the matter, this Court is of the opinion that instead of restoring the aforesaid CWJC No. 14801 of 2012 to its original file, the interest of justice shall be sub-served if the petitioners are granted liberty to approach the learned Bihar Land Tribunal, Patna for grant of appropriate reliefs to them with respect to the lands in question as also with respect to the aforesaid order passed by the Divisional Commissioner, Bhagalpur. It is ordered accordingly.

If an appropriate petition is filed on behalf of the petitioners before the learned Bihar Land Tribunal, Patna with a certified copy of the present order within a period of two months

from today, then the same shall be considered and decided on its own merits strictly in accordance with law, but without prejudiced/ influenced by dismissal of CWJC No. 14801 of 2012 by aforesaid order dated 1.10.2015 passed by this Court.

The present M.J.C. application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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