

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1583 of 2015

IN

Civil Writ Jurisdiction Case No. 13099 of 2013

- =====
1. Md. Hanif S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
 2. Md. Halim, S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
 3. Md. Maneer, S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
 4. Md. Sanif, S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
 5. Md. Reyajuddin, S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
 6. Md. Bismilan, S/o Late Jan Mohammad @ Dosh Mohammad, Resident of Village - Chhatishi, Post - Tetahali Bazar, P.S. - Barhariya, District - Siwan.
- Appellants

Versus

1. The State of Bihar
2. The District Magistrate, Siwan.
3. The Sub Divisional Officer, Siwan.
4. The Deputy Collector Land Reform, Siwan Sadar, Siwan.
5. The Circle Officer, Barhariya, Siwan.
6. Krishna Sah, S/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post Tetahali, P.S. Barhariya, District Siwan.
7. Ishwar Jee Sah @ Ram Ishwar Sah, S/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
8. Arvind Kumar Sah, S/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
9. Lal Babu Sah, S/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
10. Om Prakash Sah, S/o Rama Jee Sah, Resident of Village - Tetahali Bazar, Post Tetahali, P.S. - Barhariya, District - Siwan.
11. Arun Kumar Sah, S/o Rama Jee Sah, Resident of Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
12. Lilawati Devi, D/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
13. Indu Devi, D/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
14. Kalawati Devi, D/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
15. Lal Munia Devi, D/o Late Sita Ram Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.
16. Devanti Devi, D/o Ram Jee Sah, Resident of Village - Tetahali Bazar, Post - Tetahali, P.S. - Barhariya, District - Siwan.

.... Respondents

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Appearance :

For the Appellants : Mr. Sanjay Parasmani, Advocate
For Res. No.2 to 5 : Mr. Mrigendra Kumar, AC to GA4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 13-01-2017

Court is not convinced with the reason which has been provided by the appellant in I.A. No.7183 of 2015 specially in these days when communication has taken the speed of light and all orders of the High Court, once pronounced, are available on the website for every litigant to have knowledge and information. The order was pronounced in Court after hearing the parties, which included the counsel for the appellants. However, the Court is willing to give indulgence in the interest of justice and the delay of 93 days is condoned.

2. I.A. No.7183 of 2015 is allowed.

3. The matter is thereafter taken up on the merits. The order impugned is the order dated 12.01.2015 passed in CWJC No.13099 of 2013 by the learned Single Judge who has allowed the writ application, set aside the impugned order dated 27.04.2013 by the DCLR in Bihar Land Dispute Resolution Case No.35/143/2012-13, which was annexed as Annexure-3 to the writ application on the ground that the order passed by the DCLR in exercise of power under the said Act was a serious error of jurisdiction because by such exercise of power under the Bihar Land Dispute Resolution Act,



2009, he has virtually obliterated the previous adjudication and declarations made by authorities saddled with the responsibility of such decision under Bihar Tenancy Act as if the DCLR was the supreme authority and had power to sit in appeal and revision or whatever it may be.

4. The learned Single Judge has taken note of the dispute going on between the parties relating to ownership of a land on the basis of occupancy under-raiyats under Section 48D of the Bihar Tenancy Act, 1885. The history of the litigation has been traced, the adjudication has been made, the appellants did not have a leeway in any of those proceedings, they even moved a suit but after more than 10 years decided to withdraw it but when the new legislation came into place in the year 2009, seeing it as an opportunity to shake off the adverse orders and status, these appellants decided to take a chance by invoking the jurisdiction of the DCLR.

5. The learned Single Judge, therefore, while taking note of the decisions on such issue adjudicated by a Division Bench, which was the case of *Maheshwar Mandal & Anr. vs. The State of Bihar & Ors.*; 2014 (3) PLJR 281 as well as the position, which emerges from the declaration of law by the said Division Bench categorically held that the DCLR cannot sit in appeal or revision to earlier orders passed in relation to the six enactments, which have been listed in Schedule-I



of Act of 2009.

6. Obviously since it was a case of over reach on behalf of the DCLR, therefore, the objection of the appellants that there was statutory remedy available to the petitioners of the writ application, who are respondents here, is a misplaced kind of objection to take. The Court is of the opinion that gross injustice would have been done to the respondents if the learned Single Judge would not have intervened and set aside the order of the DCLR.

7. No infirmity emerges in the decision of the learned Single Judge. The appeal is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

S.Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
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