

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1245 of 2013
IN
Civil Writ Jurisdiction Case No. 1468 of 2003**

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1. Bhageshwari Devi, wife of Late Bacha Mandal Resident Of Village- Meghoul, P.S- Pandaul, District- Madhubani.
2. Lalita Devi, W/o Manohar Mandal, Resident of Village- + P.O. – Bargoriya, P.S. – Pandaul, District – Madhubani
3. Anju Devi, W/o Fulbabu Mandal, Resident of Village- + P.O. Nehta, P.S. – Manigachi, District – Darbhanga
4. Ruchi Devi, W/o Bipin Kumar, Resident of Mohalla – Allpatti, P.O. – DMC, P.S. – Bahadurpur, District – Darbhanga
5. Mahendra Mandal S/O Kusheshwar Mandal Resident Of Village- Meghoul, P.S- Pandaul, District- Madhubani.

.... Appellant/s

Versus

1. The State Of Bihar
2. Deputy Collector- In- Charge, Land Reforms, Madhubani.
3. Anchal Adhikari, Pandaul.
4. Lal Bahadur Choudhary S/O Yogendra Narayan Choudhary Resident Of Village- Meghoul, P.S- Pandaul, District- Madhubani.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogendra Mishra, Sr. Advocate
Mr. Arvind Kumar Jha, Advocate
For the Respondent/s : Mr. Aditya Nath Jha, AC to SC-18

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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: 07-02-2017

I. A. No. 733 of 2017 is allowed, which is for substitution of appellant no. 1, who is dead. The details of the heir of appellant no. 1 have been indicated in paragraph 1 of the substitution petition.

Heard learned counsel for the parties.

The anxiety of the counsel for the appellant to avoid



going through the process of appeal or revision can be best appreciated by the Bench, because the revenue authorities are better versed with the records as well as the records are readily available to them for verification, than a writ court.

The Learned Single Judge in this background refused to exercise discretion under Article 226 of the Constitution of India, when challenge was made in the writ application to the correctness or otherwise of an order, dated 02.12.2002 passed by the Deputy Collector, Land Reforms, Sadar, Madhubani in Case No. 6 of 1997-98. This order was passed in a proceeding under section 4 (h) of the Bihar Land Reforms Act, 1950.

A valiant effort was made by counsel that they are not required to exhaust the remedy of appeal and revision, if the necessary power under 4(h) of the Act, could not be exercised in the given facts. The fact is that the settlement is said to have been made in favour of the appellant-vendor way back in the year 1902.

A reading of the impugned order shows that there are things amiss with regard to such defence. The manner in which records have been interpolated or entries have been made after cutting, over writing etc. etc. the plea can not be accepted on the face value. It is in this background of controversies of facts that the Learned Single Judge decided not to make a declaration in the writ in favour of the appellants and directed to exhaust the remedy.

No wrong has been committed by the Learned Single



Judge, because even this Bench is satisfied that the facts are matter of serious dispute. They require authentication and verification at the local level by the revenue authorities. Merely because a defence has been put up that the transfer was prior to 1st of January, 1946, therefore, the proceeding under 4 (h) of Bihar Land Reforms Act is not maintainable is only a plea taken, authenticity of which will have to be tested by the concerned authorities.

In view of the above, the leeway given by the Learned Single Judge in favour of the appellants still remains, but no interference is warranted with the impugned order, dated 13.08.2013 passed in C. W. J. C. No. 1468 of 2003.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
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