

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.482 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 10056 of 1993

With

Interlocutory Application No. 2090 of 2016.

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1. Surendra Roy, Son of Kanchan Ram, Resident of village- Bariarwa, P.S.- Chitauha, District- West Champaran
 2. Muna Bhar, Son of Surendra Bhar
 3. Godhi Chaudhary, Son of Shivdat Chaudhary
 4. Harihar Mushar, son of Dhawal Mishar
 5. Bhasan Goarat, Son of Puran Goarh
 6. Stan Mushar, Son of Mohar Mushar
 7. Most. Radhika W/o Late Motilal Ram
 8. Kishwar Mushar, Son of Trivenee Mishar
 9. Chanda Ram, Son of Murali Ram
 10. Shiv Nath Dushadh, Son of Jadu Dushadh
 11. Gamha Mishar, Son of Gopal Mushar
 12. Salamat Mian, Son of Rabib Mian
 13. Asharfi Mishar, Son of Mohar Mishar
 14. Bishwanath Mushar, Son of Dhirghan Mishar
 15. Gauri Bhar, Son of Gorakh Bhar
 16. Mahesh Mushar, Son of Tribeni Mishar
 17. Chandra Mishar, Son of Gopi Mishar
 18. Prasadi Ram, Son of Gudi Ram
 19. Parmeshwar Bhar Son of Late Anwat Bhar
 20. Bhim Dharikar, Son of Kableshar Dharikar
 21. Bhalai Been, Son of Baran Been
 22. Darshan Ram, Son of Paryag Ram
 23. Ganesh Mishar, Son of Jugan Mushar
 24. Jhulan Mishar, Son of Mona Mishar
 25. Jagarnath Bhar, Son of Gorakh Bhar
 26. Pheku Bhar, Son of Late Jagdeo Bhar
 27. Rameshwar Ghaghar, Son of Lutaban Jhaghar
 28. Phenku Bhar, Son of Timli Bhar
 29. Harihar Mishar, Son of Nath Mishar
 30. Balkeshwar Mishar, Son of Nath Mishar
 31. Tashlim Mian, son of Saff Mian
 32. Mostt. Kushuni, Wife of Dal Mishar
 33. Tufani Mushaher, Son of Most. Mothia
 34. Mostt. Rashidana, Wife of Sahewan Mian
 35. Mostt. Neshrun Nejha, Wife of Salti Mian
 36. Shankar Dhagarh, Son of Mitku Bhagah
 37. Mostt. Somaria, Wife of Jatah Mian
 38. Mostt. Pabbdhari, Wife of Bhuteli Ram
 39. Sharban Been, Son of Baran Been
 40. Harihar Bhar, Son of Gunraj Bhar
 41. Khaderan Ram, Son of Bhuteli Ram
 42. Mostt. Kishoria, wife of Suresh Kebat
 43. Chokat Mushahar, Son of Late Bhagan Mushahar
 44. Jagan Mishar, Son of Gobardhan Mishar



45. Bishram Nonia, Son of Chandra Nonia
46. Ram Prit Bhar, Son of Bandhu Bhar
47. Tribeni Bhar son of Lalu Bhar
48. Rudal Ram, Son of Magar Ram
49. Bali Ram, Son of Gudi Ram
50. Surag Bhar, Son of Bandhu
51. Naresh Kebat, Son of Munib Kebat
52. Parbhu Dharikar, Son of Phagu Bharikar
53. Sadhu Bhar, Son of Mukhi Bhar
54. Motichand Mushar, Son of Bhola Mishar
55. Suraj Ram Son of Kanchan Ram
56. Sitaram Ram, Son of Kanchan Ram
57. Badri Bhar, Son of Ram Raj Bhar
58. Shankar Bhar, Son of Banshi Bhar
59. Parhlad Bhar, Son of Ram Dhari Bhar
60. Rajharan Bhar, Son of Kailash Bhar
61. Mostt. Surashti,, Wife of Late Banshi Bhar
62. Raj Kumar Rai son of Late Banshi Bhar
63. Gamha Rai son of Late Banshi Bhar
64. Sahodra, Wife of Lal Bihari Bhar
65. Bharat Rai Son of Late Lal Bihari Bhar
66. Bhukhal Rai Son of Late Lal Bihari Bhar
67. Rita Devi Sister of Late Satya Narayan Dharikar
68. Mostt. Pyari, Mother of late Satya Narayan Dharikar
69. Dhurub Bhar, Son of Parshuram Bhar
70. Hari Bhar, Son of Parshuram Bhar
71. Sharda Devi, Daughter of Late Chhedi Been
72. Haramati Devi, Daughter of Late Bhikham Been
73. Mostt. Chathia, Wife of Late Bhikham Been
74. Tufani Rai Son of Late Kishnath Bhar
75. Om Prakash Bhar, son of Late Kishnath Bhar
76. Most. Ranju, Wife of Late Kishnath Bhar
77. Mangal Bhar, Son of Ram Bal Bhar
78. Radhika Devi, Wife of Phunku Kebat
79. Mostt. Ganeshi, Wife of Late Makhan Ram
80. Dubar Bhar, Son of Birja Bhar
81. Binod Bhar, Son of Birja Bhar
82. Ram Belash Ram, Son of Lakhan Ram
83. Kalla Munnia, Wife of Habib Mian
84. Dhar Mushahar, Son of Late Kailash Mushahar
85. Kanchan Kebat, Son of Munib Kebat
86. Lal Bachan Bhar, son of Late Shyam Sunder Bhar
87. Basudeo Bhar, Son of Late Shyam Sunder Bhar
88. Mostt. Jashodia, Wife of Late Jagdish Bhar
89. Kalawati Devi, Daughter of Late Jagdish Bhar
90. Sadhu Bhar, Son of Late Shyam Guli Bhar
91. Nagina Ray, Son of Sukhal Ram
92. Shib Narain Ram, Son of Bindshwari Ram
93. Mamuti Ram Son of Mahadeo Ram
94. Mostt. Marachhi Devi, Wife of Puran Bahi Ram
95. Jugeshwar Mahto, Son of Lutaban Mahto
96. Shyam Lal Ram, Son of Nathu Ram



- 97. Tribeni Ram, Son of Dukhi Ram
- 98. Narain Hazam, Son of Sheo Nandan Harzan
- 99. Dhum Ram, Son of Manger Ram
- 100. Parwati Devi, Daughter of Mostt. Bhukhali
- 101. Mosst. Lakhpatiya, Wife of Rajbaliram
- 102. Mostt. Sanichari, Wife of Muyal Ram
- 103. Bhikhari Ram, Son of Sukhal Ram
- 104. Ram Badan Rai, son of Late Raj Bali Bhar
- 105. Uma Kant Rai, Son of Late Raj Bali Bhar
- 106. Langi Mian, Son of Ali Hassan Mian
- 107. Mostt. Chandari, Wife of Maina Ram, All Resident of village- Bariarwa, P.s.- Chituaha, District- West Champaran at Bettiah

.... Writ Petitioners / Appellants

Versus

- 1. The State of Bihar
- 2. Divisional Commissioner, Tirhut Division, Muzaffarpur
- 3. Collector, West Champaran, Motihari
- 4. Additional Collector, West Champaran, Motihari
- 5. Additional Collector, West Champaran at Bettiah
- 6. Sub Divisional Officer, Bagha
- 7. Deputy Collector Land Reforms, Bagha
- 8. Circle Officer, Bhaga- 2
- 9. Kapil Deo Narain Singh, Son of Late Baldeo Singh, Resident of village- Ahirolia, P.S.- Chakia, District- West Champaran at Motihari
- 10. Murli Manohar Singh
- 11. Sudhir Kumar Singh Both sons of Kapil Deo Naraian Singh, Resident of village- Ahiralia, P.S.- Chakia, District- West Champaran at Motihari
- 12. Dwarika Sahi, Son of Sri Nunu Sahi, Resident of village- Kamtaul, P.S.- Kurhani, District- Muzaffarpur
- 13. Dharab Mahto
- 14. Radhey Shyam Mahto, Both sons of Chini Mahto, deceased
- 15. Ramjee Sah
- 16. Madan Sah Both sons of Ramji Lal Sah, deceased
- 17. Rej Naraian Prasad
- 18. Rama Shanker Prasad
- 19. Nag Narain Prasad
- All sons of Gorakh Bal, deceased, Residents of village- Koluha, Chautarwa, P.S.- Bagha, District- West Champaran

.... Respondents / Respondents.

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Appearance:

- For the Appellant/s : None.
- For the Respondent/s : Mr. Ravi Verma, AC to GP 4.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-04-2017



None appears for the appellants. None had appeared on 28.03.2017 also.

Sri Ravi Verma, AC to GP 4, appears on behalf of the respondents.

Re. I.A. No. 2090 of 2016.

Finding that there is a reasonable justification causing delay of 21 days in filing the appeal, the delay is condoned. I.A. No. 2090 of 2016 is allowed.

Re. L.P.A. No. 482 of 2016.

Seeking exception to an order dated 29.10.2015 passed by the Writ Court in CWJC No. 10056 of 1993, the appellants have filed this appeal under Clause 10 of the Letters Patent. The case of the petitioners before the Writ Court is that they had filed the Writ Petition seeking quashing of an order dated 25.06.2013 passed by the Additional Collector, West Champaran, Bettiah whereby the final draft publication of land, declared as surplus under the Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961, was notified with respect to land in question and settlement of land made by the competent statutory authority was challenged in the Writ Petition.

After considering various aspects of the matter, the learned Writ Court found that the petitioners were only purcha-



holders and merely because they are purcha-holders no right accrues to them and the jurisdiction of the State Government to acquire surplus land and settle it in favour of the needy persons is not taken away merely because they are some purcha-holders. In fact, in Para 21 of the impugned judgment the learned Writ Court has dealt with the issue in question in detail which is being reproduced hereinbelow:

“21. In view of the discussion, as above, I am of the considered view that Parcha-holders cannot have better right over the land than the jurisdiction of the State Government to acquire surplus land, under the provisions of the Act. Their claim may depend upon acquisition of land by the State. In the present case, when the Revenue Authorities, under the Act, themselves have decided to delete the land, in question, from being declared surplus and have further decided to declare other lands of the land-holder to be surplus, the Parchas, issued in favour of the petitioners, have no meaning. It goes without saying that the State-respondents are free to settle the land of the land-holder, which has been declared surplus pursuant to the amended notification, published in the official Gazette of the district, on 13.07.1993, brought on record by way of Annexure-7 to the writ application.”

We find no error in the order passed by the learned Writ Court warranting reconsideration. The appeal is therefore dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.04.2017
Transmission Date	N/A

