

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6545 of 1990

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Rasool Alam son of Sheikh Mohamaad Shafir, resident of village – Neori Tola, Karawaniaya, P.S. – Barauli, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sheikh Mohammad Islam s/o Late Sheikh Haibat village- Ratan Sarai, Zafar Tola, P.S.- Barauli, District- Gopalganj.
3. Sheikh Abdul Razagut
4. Sheikh Mohammad Taiyab
5. Sheikh Mohammad Ishahaque
(3 to 5 sons of late Sheikh Mohammad Shafir resident of village Neori Tola, Karawaniya, P.S.- Barauli, District- Gopalganj.
6. Sheikh Mohammad Izhar, son of late Sheikh Haibab, village- Ratan Sarai Zafar Tola, P.S. – Barauli, District- Gopalganj.
7. Member Board of Revenue, Patna, Bihar

.... Respondents

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Appearance :

For the Petitioner/s : None

For the Respondent-State: Mr. Kameshwar Kumar, GP 17
Mr. Arbind Kumar, AC to GP 17

For the Private respondent: None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

10 06-10-2018 Today is the second consecutive date when none appears on behalf of petitioner to press the writ petition. There is no representation on behalf of the private respondent either. Learned Counsel for the State is present.

The writ petitioner is the preemptor under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as ‘the Act’) and is aggrieved by the order dated 23.08.1990 of the Member, Board of Revenue, whereby Revision Case No. 350 of 1989 preferred by the purchaser has been allowed and the orders



passed by DCLR and the Collector in appeal have been set aside.

This writ petition was admitted for hearing vide order passed on 11.04.1991. It was taken up for hearing but dismissed for non-prosecution on 26.08.2010 and restored subsequently on 15.12.2017 vide order passed in MJC No. 2310 of 2012 but thereafter when it was listed on 28.09.2018 none appeared for the petitioner to press this writ petition and the same situation exists today as well.

Since the writ petition was admitted for hearing and has been dismissed for non-prosecution even earlier, I do not intend to dismiss it again for non-prosecution in view of the developments noted below.

During the pendency of the proceedings the State legislature has enacted Bihar Land Tribunal Act, 2009 (Bihar Act 9 of 2009) (hereinafter referred to as 'the Act') which provides for constitution of the Bihar Land Tribunal for adjudication upon the orders passed by the statutory authorities under the enactment referred to in Section 9 of 'the Act' which includes the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 at Item No. (i).

While Section 9 of 'the Act' confers power on the Tribunal to entertain all cases arising under the enactments listed



thereunder, Sub-section (2) thereof confers jurisdiction on the Tribunal to decide any case transferred to the Tribunal by the State of Bihar or the High Court. Section 15 of 'the Act' deals with the issue of 'Transfer of the proceedings pending in the High Court and the State Government' and the proviso attached thereto leaves it at the discretion of the High Court to remit the dispute pending adjudication in any writ proceeding, for adjudication by the Tribunal.

In my opinion, since the orders impugned in this writ petition do not raise issue of jurisdictional error nor any complaint of violation of the principles of natural justice is made, in view of the legislative intendment present at proviso to Section 15 read alongside Section 9(2) of 'the Act', I deem it proper to order for transfer of the present proceeding for adjudication and disposal by the Tribunal in accordance with law.

The Registry is accordingly directed to take steps for transmission of the records of the proceeding to the Bihar Land Tribunal within four weeks from today.

The writ application is disposed of accordingly.

(Jyoti Saran, J)

Archana/Surendra

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