

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4710 of 1994

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1. Smt.Raj Kumari Devi, wife of Awadhesh Kumar Ojha, resident of village Katyan, P.O. Katya, P.S. Behia, District Bhojpur
 2. Smt. Hawanti Devi, wife of Jagmun Pandey, resident of village Garhatha, P.O. Sheopur, P.S. Piro, Distric Bhojpur.

.... Petitioners

Versus

1. The Joint Director of Consolidation (Headquarters), Bihar, Patna
2. The Deputy Director of Consolidation, Bhojpur
3. The Consolidation Officer, Tarari
4. (i) Ravindra Nath Upadhya @ Doodhnath Upadhya
(ii) Vimal Upadhya, son of Ravindra Nath Upadhya
(iii). Kamal Upadhya, son of Ravindra Nath Upadhya
(iv). Suman Upadhya, son of Ravindranath Upadhya
(v). Bablu Upadhya, son of Ravindra Nath Upadhya
(vi). Tapan Upadhya, son of Ravindra Nath Upadhya
All resident of village Mangraon, P.O. Mangraon, P.S. Nasariganj, District-Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. K.N. Choubey, Sr. Adv.

For the Respondent/s : Mr. Om Prakash Upadhya, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-10-2018

Heard learned counsel for the parties.

In this application the petitioners have questioned the order passed by the statutory authorities under the Bihar Consolidation of Holding and Prevention of Fragmentation Act, 1956, as contained in Annexures 1, 2 and 3 of the application. According to the petitioners, the order(s) impugned are not in tune with the statutory provisions.

This writ petition was admitted for hearing on 6.7.1998 and has been listed for hearing on completion of pleadings.

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 (hereinafter referred to as 'the 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 Consolidation of Holding and Prevention of Fragmentation Act, 1956 at Item No.IV. 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 the proviso attached 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 contesting parties shall appear before ‘the Tribunal’ on 19.11.2018 for enabling ‘the Tribunal’ to proceed in the matter with a view to its disposal.

In view of the order of transfer of the pending proceedings to ‘the Tribunal’ so passed, the writ application stands disposed of accordingly.

(Jyoti Saran, J)

Archana/Surendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2018
Transmission Date	NA

