

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2316 of 1996

- =====
1. Bhagwan Sharma
 2. Shambhu Sharma
 3. Laxman Sharma

All sons of Late Ram Naresh Sharma, Residents of Village and P.O.
Katra Kala, P.S. Mohania, District-Bhabua.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Research Officer, Directorate of Consolidation, Bihar, Patna.
3. Deputy Director, Consolidation, Rohtas, Sasaram.
4. Consolidation Officer, Mohania, Rohtas, Bhabhua.
5. Sudeshwar Sharma.
6. Ramashray Sharma alias Naha Lohar.

Both sons of late Hajari Sharma.

7. Birendra Sharma, son of late Kasi Sharma.
All residents of village-Katrakala, P.S. Mohania, P.O. Katra,
District-Bhabhua.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent/s : Mr. Prabhakar Jha, GP-27

Mr. Umesh Narayan Dubey, AC to GP 27.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-10-2018

None appears on behalf of the petitioners. Mr. Prabhakar Jha, learned Government Pleader No.27 appears for the State along with Mr. Umesh Narayan Dubey to inform that the matter arises from a proceeding under the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

The writ petition was admitted for hearing on 18.11.1997 and was earlier dismissed for non-prosecution on 14.05.2015 and restored on 16.10.2017, yet none appears on behalf of the



petitioners to press the writ petition.

During the pendency of the writ 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 Holdings 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 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)

SKPathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11-10-2018
Transmission Date	NA

