

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1613 of 1997

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2(i) Bishwanath Choubey

2(ii) Jagya Nand Choubey

2(iii) Rangnath Choubey

All sons of deceased Ramdeo Choubey and are residents of Village- Kachhawa, PS- Nasariganj, District- Rohtas

2(iv) Shanti Kunwar, D/o deceased Ramdeo Choubey, W/o Late Awadesh Pandey. \

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Joint Director, Consolidation, Bihar Bhumi Vikash Bhawan, Budh Marg, Patna.

3. The Deputy Director, Consolidation, Rohtas at Sasaram, District- Rohtas.

4. The Consolidation Officer, PS and Anchal- Karakat, District- Rohtas.

5. Smt. Kamla Devi, wife of Ram Tabakya Bedua.

6. Ram Tabakya Bedua, son of late Deoki Bedua.

Serial nos.6 and 7 are resident of Village- Kachhawa, PS- Nasariganj, District- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudama Singh, Adv.
Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. Prabhakar Jha, GP-27
Mr. Mukund Mohan Jha, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-10-2018

Mr. Sudama Singh, learned counsel appearing for the petitioners and Mr. Prabhakar Jha, learned Government Pleader No.27 for the State are present. Though served and having registered appearance through counsel as noted in the order dated 02.09.2013 there is no representation on behalf of the private respondents today.

The petitioners are aggrieved by the order of the Joint Director of Consolidation passed in Revision Case No.1298 of 1989, whereby he



has set aside the orders passed in favour of the petitioners by the Consolidation Officer as affirmed by the Deputy Director of Consolidation.

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 30.04.1998 but without any interim order. In between the pendency the writ petition was dismissed for non-prosecution and has been restored subsequently.

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

