

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12853 of 1996

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1. Anant Kumar Jha
2. Sanandan Kumar Jha
3. Sanatan Kumar Jha
4. Ram Kishore Jha, All sons of Raj Narayan Jha, resident of village Kusothar, P.S. Bhadurpur, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Additional Collector, Darbhanga,
4. The Deputy Collector, Land Reforms, Darbhanga.
5. (a) Most Buchchi Devi died.
 W/o late Abhimanyu Jha.
5(b) Mithilesh Kumar s/o late Abhimanyu Jha.
5(c) Kamlesh Kumar Jha, s/o late Abhimanyu Jha.
5(d) Lalit Kumar Jha, s/o late Abhimanyu Jha.
5(e) Ashwani Kumar Jha, s/o late Abhimanyu Jha.
6. Pradyuman Jha, both sons of Jang Bahadur Jha,
7. Jagdish Jha, Son of late Ramnandan Jha, Sl. No. 5 to 7 are residents of village Kusothar, P.S. Bahadurpur, District Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Jha, Adv.
For the Respondent/s : Mr. Umkant Shukla, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 06-10-2018

Heard Mr. Gajendra Kumar Jha, learned counsel for the petitioner, counsel for the State and Mr. Umakant Shukla, learned counsel for the private respondent.

The preemption application of the private respondent was allowed by the Deputy Collector Land Reforms 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 Ceiling Act'). Feeling aggrieved the purchaser went in appeal before the Additional Collector, which appeal was allowed. Now it was the turn of the preemptor to move before the Board of Revenue in revision which was allowed in favour of preemptor. The purchasers feeling aggrieved are before this Court in writ jurisdiction questioning the order passed by the Member, Board of Revenue in so far as it allows preemption in favour of the private respondent.

This writ petition was admitted for hearing on 10.07.1998 but no interim order was passed. The matter has thereafter 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 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 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)

Bibhash/Ranveer

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2018
Transmission Date	NA

