

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1273 of 1997

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Smt. Namita Sen, wife of Madan Mohan Sen, resident of village Raniganj,
Barbanna, police station Raniganj, district, Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Sub Divisional Officer, Farbisganj, district Araria
3. The Circle Officer, Raniganj, district Araria
4. Shanti Sen wife of Ashutosh Chandra Sen
5. Shrikant Sen, son of late Shato Chandra Sen.
6. Modan Chandra Sen, son of late Shato Chandra Sen
All resident of village Bangbhai, police station Raniganj, district Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Parimal Chandra Das
For the Respondent/s : Mr. (Gp1)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date : 06-10-2018

None appears on behalf of the petitioner nor there is
any representation on behalf of the State.

In this application the petitioner has questioned the
order passed by the statutory authorities under the Bihar Tenancy
Act, 1885 whereby the appeal of the petitioner as against the
declaration of the respondent as occupancy raiyat under Section
48 (D) of the said Act has been dismissed and the order dated
10.07.1995 passed by the Circle Officer in case No. 28 of 1995-96
upholding the occupancy right of the private respondent under
Section 48(D) of the Bihar Tenancy Act has been confirmed.



This writ petition was admitted for hearing on 29.04.1998 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 Tenancy Act, 1885 at Item No. (iii). 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	11.10.2018
Transmission Date	NA

