

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11115 of 1996

1. (a) Asha Devi, w/o deceased Surendra Pd. Roy
(b) Amrendra Kr. Roy.
(c) Nilendra Kr. Roy.
(d) Jitendra Kr. Roy.
(e) Bandana Devi, wife of Ananddhari Singh), daughter of Surendra Pd. Roy.
2. Bibhuti Narayan Roy
3. Pramod Roy alias Parmanand Roy
4. Rajnity Prasad Roy
All sons of Lakshmi Narayan Roy.
5. Smt. Gaya Devi wife of Chhedi Prasad Roy
6. (a) Shri Ballabh Pd. Roy
(b) Krishna Ballabh Pd. Roy
(c) Chandra Ballab Pd. Roy
Sons and daughters of deceased Rajendra Pd. Roy.
(d) Punita Devi, wife of Mukund Roy
(e) Anita Devi, W/o Sardendu Pd. Singh
(f) Sunita Devi, w/o Prabhash Kr. Singh
All heirs named in para 1 and 2 aforesaid are resident of vill/po Khajraitha P.S Parbatha Dist- Khagaria
7. Bijay Raghav Roy alias Bijay Raghav Saran Roy
8. Keshari Nandan Roy
9. Shashi Shekhar Roy
All sons of chhedi Roy all resident of village Khajraitha P.S. Parbatta, District Khajaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anchal Adhikari, Parbatta, P.S. Parbatta District Khagaria.
3. Anchal Amin, Parbatta Anchal, P.S. Parbatta, District Khagaria
4. Bihar Bhoodan committee, Kadam Kuan, Patna 3. through Adhayaksha, Bihar Bhoodan & Yagyan Committee
5. Adhayaksha, Bihar Bhoodan Yagyan Committee Kadam Kuan Patna 3
6. Karyalaya mantri, District Bhoodan Committee Khagaria.
7. Additional Collector, Khagaria
8. District Magistrate cum Collector, Khagaria
9. Deputy Collector Land Reform (D.C.L.R.)
Khagaria

.....Respondents 1st Party.

10. Bilas Das son of Debu Das
11. Wakil Das son of Dukhu Das
12. Bakhori Das son of Nandlal Das
13. Baraamdeo Das son of Biteshwar Das
14. Harangi Das son of Baldeo Das
15. Bindeshwari Das son of Bhuni Das
16. Akchya Lal Das son of Bindeshwari Das



17. Sri Pati Das son of Singheshwar Das
18 Janardan Das son of Jogi Das
19. Sachida Das son of Amir Das

All Resident of village Kalwara, P.S. and Anchal Parbatta, District
Khagaria

... .. Respondent/s Iind Party.

Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh, Adv.
Mr. Indra Shekhar Dwivedi, Adv.
Mr. Satendra Kumar Sinha, Adv.
For the Respondent/s : Mr. Alka Verma, SC5

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 06-10-2018

Mr. Satendra Kumar Sinha learned counsel for the
petitioner, counsel for the State and Mr. Ram Chandra Lal Das for
the Bhoodan Yagyan Committee are present.

The petitioners are aggrieved by the order dated
12.09.1994 of the Circle officer in directing the Circle Amin for
measurement of the land bearing khata No. 89, Plot No. 43 village
Keria, Thana No. 355 in the district of Khagaria for its distribution
amongst the Purcha Holder.

Mr. Das, in reference to Annexure A /3 submits that
the land donated by the petitioner has already vested in the
Bhoodan Yagyan Committee and confirmed by the State
Government.

The writ petition was admitted for hearing on
31.08.1998. On threatened of dispossession that the petitioner
moved an interlocutory application. By order passed on



18.01.2010, a coordinate bench directed for maintenance of status quo as existing on the said date over the lands in question. Mr. Sinha learned counsel for the petitioner submits that by virtue of the interim order, the petitioner herein continued to be in possession of the lands. While the order impugned at Annexure 1 opines that the lands in question had been donated by the petitioner to the Bhoodan Yagyan Committee and has since been vested in them, the petitioners while accepting the position that an intent was shown by the petitioner to donate land but submits that it never reached any conclusion because the descriptive details of the land to be donated was never mentioned in any document and that is why by order dated 28.09.1994 of the Chairman, Bhoodan Yagyan Committee status quo was directed to be maintained. It is also the argument of Mr. Sinha that in a proceeding initiated under the Bihar Bhoodan Yagna Act, 1954 these lands have been retained by the petitioner vide Annexures 2, 3 and 4. He submits that in view of the position reflecting from Annexure 2 to 4 the order at Annexure 1 cannot be given effect to because if the ceiling authorities have allowed the petitioners to retain these lands, in absence of any documents supporting the donation, the order is not sustainable.



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 Bhoodan Yagna Act, 1954 at Item No. (vi). 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

