

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.730 of 1997

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1. Rama Shankar Sah, son of late Ramdhari Sah
2. Raghunath Sah.
3. Dhruva Sah.
4. Kashinath Sah, petitioner 2 to 4 are sons of late Bishwanath Sah, All residents of village Jamunaha, P.O. Chhitauna, Anchal and P.S. Kateya, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Joint Director, Consolidation, Muzaffarpur
3. The Deputy Director, consolidation, Siwan.
4. The consolidation officer, Kateya, District- Gopalganj.
5. Sitaram Sah
6. Laxman Sah
7. Bharat Sah.
All three sons of late Mahesh Sah.
8. (a) Fulpali Devi
(b) Sudma Devi
All 5 to 8 residents of village Jamunaha, P.O. Chhitauna Anchal and P.S. Kateya, District Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Adv.
For the Respondent/s : Mr. J.N.Jha, GP2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 06-10-2018

Heard learned counsel for the parties.

In this application the petitioners have questioned the order passed by the statutory authorities under the Bihar Consolidation of Holding and Prevention of Fragmentation Act, 1956, as contained in Annexures 6 of the application. According to the petitioners, the order(s) impugned are not in tune with the statutory provisions.



This writ petition was admitted for hearing on 19.10.2000 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 Consolidation of Holding 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 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

