

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1490 of 1997

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Smt. Chandrakala Devi, wife of Shri Bijendra Prasad Singh, resident of village Saroja, Police Station Simri Bakhtiarapur, District Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
2. Additional Member, Board of Revenue, Bihar, Patna.
3. Additional Collector, Saharsa
4. The Land Reforms Deputy Collector, Saharsa
5. (1) Udhari Devi, wife of late Biranchi Yadav.
- (2) Sandeo Yadav
- (3) Kishore Yadav
- (4) Lalit Kumar Yadav @ Lallan Yadav
- (5) Lakshmi Yadav, all sons of late Biranchi Yadav.
- (6) Sita Devi
- (7) Geeta Devi
- (8) Rita Devi
- (9) Babita Devi, all daughters of late Biranchi Yadav r/o- village Sarujee, P.S. Bakhtiarapur, District Saharsa
6. Abdul Mannan Khan, son of late Haji Abdul Majid.
7. Bibi Hajra Khatoon, wife of Hassan Khan
8. Bibi Saira Khatoon alias Hajam Khatoon (Ujara), wife of Md. Sasar Iman, all residents of village Saroja, Police Station Simri Bakhtiarapur, District Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Singh, Adv. Mr. Ganesh Prasad Singh, Adv.
For the State	:	Mr. Rishi Raj Sinha, Adv.
For the Respondent No. 5	:	Mr. Suraj Narayan Yadav, Adv. Mr. Shok Haran Singh, Adv. Mr. Satyapal Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-10-2018

Heard learned counsel for the parties.

The matter relates to a proceeding under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. The issue of Benamidar



is in question as that is the foundation for defaulting the preemption application which has not been accepted by the statutory authorities.

This writ petition was admitted for hearing on 04.01.1991 with no interim order.

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 the 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)

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