

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.636 of 1997

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1.Rajendra Pd.Kushwaha(Mahto) son of Late Chandra deo Prasad Kushwaha.
2. Kamto Prasad Kushwaha (Mahto) son of late Chandra Deo Prasad Kushwala, Both are resident of village Dekuli Dharmapur, P.O. Kamrauli, P.S. Piprahi, district Shivhar

... .. Petitioner/s

Versus

1.The State of Bihar
2. The Joint Director of Consolidation, Muzaffapur
3. Deputy Director of Consolidation, Sitamarhi.
4. Consolidation Officer, Piprahi, District Sitamarhi at present Shivhar
5. Sitaram Mahto Son of late Parsan Mahto
6. Ram Ratan Mahto Son of Sitaram Mahto
Respondent No. 5 and 6 of village Dekuli Dharampur P.O Kamrauli, P.S Piprahi, Distt. Shivhar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nirmal Kumar Sinha No.3
For the Respondent-State:	:	Mr. Prabhakar Jha, G.P.27
For the respondent	:	Mr.Lal Bahadur Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 06-10-2018

Learned counsel for the parties are present.

The petitioner questions the order passed by the statutory authorities under the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

This writ petition was admitted for hearing on 06.08.1998 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 Consolidation of Holdings 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.

Since the contesting parties are in attendance before this Court, they 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	25.10.2018
Transmission Date	NA

