

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.183 of 2019

In
Civil Writ Jurisdiction Case No.12773 of 2016

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1. Satish Kumar Singh Son of Umashankar Singh, Resident of village Paharpur Police Station Kuchaikot, Distt Gopalganj.
 2. Sunil Kumar Singh Son of Uma Shankar Singh Resident of village Paharpur, Police Station Kuchaikot, District Siwan Gopalganj.
 3. Tripurari Singh Son of Pratap Narain Singh Resident of village Naraha, Police Station Majorganj, Sitamarhi, District Sitamarhi.
 4. Satrunjay Singh Son of Indradeo Singh Resident of village Salaha, Police Station Chautarva, Bagaha, District West Champaran.
 5. Jagat Jitendra Shahi, Son of Manik Sahi, Resident of village Pipara Deorar, Police station Deoria, Uttar Pradesh./

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, West Champaran, at Bettiah.
3. The Sub Divisional officer, Bagaha, District West Champaran, at Bettiah.
4. The Superintendent of Polcie Bagaha, District West Champaran at Bettiah.
5. The Anchal Adhikari, bagaha, Block 1, District West Champaran at Bettiah
6. The Officer-in-charge, Chautarva, Police station District West Champaran at Bettiah.

... .. Opposite Party/s

with

Civil Writ Jurisdiction Case No. 12773 of 2016

1. Satish Kumar Singh and Ors Son of Umashankar Singh, resident of Village Paharpur, Police Station Kuchaikot, District Gopalganj.
2. Sunil Kumar Singh Son of Uma Shankar Singh, resident of Village Paharpur, Police Sation Kuchaikot, District Gopalganj.
3. Tripurai Singh Son of Pratap Narain Singh resident of village Naraha, Police Station Majorganj, Sitamarhi.
4. Satrunjay Singh Son of Indradeo Singh, resident of Village Salaha, Police Station Chautarva, Bagaha, District West Champaran.
5. Jagat Jitendra Shahi, son of Manik Sahi, resdent of Village Pipara Deorar, Police Station Deoria, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar



2. The Collector, West Champaran at Bettiah.
3. The Sub Divisional Officer, Bagaha, District West Champaran at Bettiah.
4. The Superintendent of Police Bagaha, District West Champaran at Bettiah.
5. The Anchal Adhikari, Bagaha, Block 1, District West Champaran at Bettiah.
6. The Officer-in-charge, Chautarva, Police Station District West Champaran at Bettiah.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11780 of 2015

1. Dhruveshwar Singh
2. Sureshwar Singh,
Both sons of Markandeshwar Singh, Residents of Village - Bargaon, Police
Station - Bagaha, District - West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. State of Bihar
2. The Collector, West Champaran at Bettiah.
3. The Sub Divisional Magistrate, Bagaha, District - West Champaran at Bettiah.
4. The Superintendent of Police, District West Champaran at Bettiah.
5. The Anchal Adhikari, Bagaha, Block I, District - West Champaran at Bettiah.
6. The Officer-in-Charge, Chautarva Police Station, District - West Champaran at Bettiah.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 364 of 2018

1. Dhruveshwar Singh
2. Sureshwar Singh, Both sons of Late Thakur Markendeshwar Singh, resident
of Village- Bargaon, Police Station- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bihar Land Tribunal, Patna.
3. The Additional Member Board of Revenue, Bihar, Patna.
4. The Collector, West Champaran at Bettiah.



5. The Additional Collector, District- West Champaran, Bettiah.
6. The Anchal Adhikari, Bagaha, Block-1, District West Champaran at Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kamal Nayan Chaubey, Sr. Advocate Mr. Zainul Abedin, Advocate
For the State	:	Mr. Majid M. Khan, AC to AAG-12
For the Intervener	:	Mr. Parth Gaurav, Advocate Mr. Manaur Alam, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

- 6 09-08-2019 The Civil Review No. 183 of 2019 (Satish Kumar Singh & Ors. vs. The State of Bihar & Ors.) has been filed seeking review/ recall of the order dated 31.01.2019, to the extent the same relates to CWJC No. 12773 of 2016 (Satish Kumar Singh & Ors. vs. The State of Bihar & Ors.). A common order dated 31.01.2019 was passed in three cases, namely, CWJC No. 12773 of 2016 (Satish Kumar Singh & Ors. vs. The State of Bihar & Ors.), CWJC No. 11780 of 2015 (Dhruveshwar Singh & Anr. vs. The State of Bihar & Ors.) and CWJC No. 364 of 2018 (Dhruveshwar Singh & Anr. vs. The State of Bihar & Ors.), whereby, CWJC No. 364 of 2018 was remitted back to the Bihar Land Tribunal after quashing the order impugned in that case and the other two cases were transferred to the Tribunal, in exercise of power under Section 15 of Bihar Land Tribunal Act, 2009 (hereinafter referred to as “the Act”).



The said order, dated 31.01.2019, which is under review, records agreement of the parties too, for exercising power under Section 15 of the Act. Relevant portion of the order reads thus:

“Learned counsel, appearing on behalf of the parties, agree that, considering the nature of disputes involved in the present batch of writ applications, the same may be remitted to the Bihar Land Tribunal for adjudication”

This is to be noted that all the three writ applications arise out of the same Ceiling Proceeding No. 11 of 1973-74 which was initiated against the landholder Thakur Markendeshwar Singh (since deceased). Petitioners in CWJC No. 11780 of 2015 and CWJC No. 364 of 2018 are successors-in-interest of said Thakur Markendeshwar Singh. The petitioners in CWJC No. 12773 of 2016 claim to be purchasers from said Thakur Markendeshwar Singh from before 1959 of such lands also, which were subject-matter of the said ceiling proceeding No. 11 of 1973-74. It is the case of the petitioners in CWJC No. 12773 of 2016 that even such lands, which were purchased by them before 1959 from the landholders, were also clubbed and made subject-matter of Ceiling Case No. 11 of 1973-74.

From the records, it appears that a ceiling appeal, RA



No. 25 of 1991-92, arising out of said ceiling proceeding, was subsequently disposed of by the Collector, West Champaran, Bettiah, against which matter had gone up to the Tribunal and came to be disposed of by an order of the Tribunal which was put to challenge in CWJC No. 364 of 2018. It is noteworthy that the Tribunal had invoked the amendment brought, through Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2016 (Act 18 of 2016), whereby Section 45-B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the Act of 1961) stood repealed and a new Section 45-D came to be added to the said Act, and had held the proceedings before the Tribunal to have abated accordingly. Noticing the aforesaid conclusion of the Tribunal to be erroneous and contrary to the provisions of the Act of 1961, this Court had interfered with its order under challenge in that case(CWJC No. 364 of 2018), by the same common order review/recall of which is being sought for, to the extent it relates to CWJC No. 12773 of 2016. Since the order under review was passed in three cases, all the three cases have been notified under the heading 'to be mentioned' for passing appropriate orders.



I have heard Mr. Kamal Nayan Chaubey, learned Senior Counsel duly assisted by Mr. Zainul Abedin for the petitioners in all the four cases, Mr. Majid M. Khan, AC to AAG-12 for the State of Bihar and Mr. Parth Gaurav duly assisted by Mr. Manaur Alam, learned counsel appearing on behalf of the intervener.

In my opinion, which can be easily seen from the records, that facts of the three cases and the points involved therein are so integrally connected with each other that they could not have been heard separately and in the facts and circumstances of the case, before different fora. It was in that background and taking note of the agreement on behalf of the parties that the said common order was passed. One peculiar aspect of the present review application, which has bemused me most is, that whereas the petitioners in all the three cases, all of whom are being represented by learned Senior Counsel, Mr. Kamal Nayan Chaubey, have no objection to the transfer of CWJC No. 11780 of 2015 and remand of CWJC No. 364 of 2018, to the Tribunal, it is their case, however, that CWJC No. 12773 of 2016 should not be transferred to the Tribunal. In paragraph-9 of the review application, following statement has been made:



“9.....It may further be humbly stated that in course of the proceeding it was conceded that if thought proper the other writ petitions bearing C.W.J.C. No. 11780 of 2015 and C.W.J.C. No. 364 of 2018 might be remitted back to the Chairman of the tribunal for final adjudication.....”

I must note that the order was passed in the presence of learned counsel for the parties including the petitioners in all the three cases. It has, however, been stated in paragraph-11 of the review application that after close of the submissions, learned counsel had taken leave of the Court to attend his another engagement and it appears that “without making any reference to facts and law in the instant case an order was passed on 31.01.2019”. It has also been averred that it was because of communication gap that it has been recorded in the order under review that the parties had agreed that the writ petition be remitted to the Tribunal for adjudication.

Mr. Kamal Nayan Chaubey, learned Senior Counsel himself is present in Court today and I consider it apt to record this time that this order is being dictated in his presence. He has stated that no such submission was ever made, based on which agreement on behalf of the petitioners, for transfer of CWJC No. 12773 of 2016 has been recorded. This Court does not have any



reason to disbelieve what is being stated in Court by a Senior Counsel of his stature. It must, however be recorded, that CWJC No. 12773 of 2016 also arise out of an order passed by the Collector in RA No. 25 of 1991-92, which is subject-matter of other writ petitions.

In the light of the statement made in the review application and in view of the submission advanced by Mr. Kamal Nayan Chaubey, learned Senior Counsel appearing on behalf of the petitioners in all the three cases, viz., CWJC No. 12773 of 2016, CWJC No. 11780 of 2015 and CWJC No. 364 of 2018 and the review application, the order under review dated 31.01.2019, is hereby recalled, except for the parts which have been passed on interlocutory applications. The Review application is accordingly allowed.

In the peculiar facts and circumstances of the case, it is observed that let CWJC No. 12773 of 2016, CWJC No. 11780 of 2015 and CWJC No. 364 of 2018, be not placed before me and be placed before any other appropriate Bench after obtaining necessary orders of Hon'ble the Chief Justice.

(Chakradhari Sharan Singh, J)

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