

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11773 of 2019

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Baban Prasad Sharma Son of late Nand Kumar Singh, Resident of Village-
Neema, Police Station- Daud Nagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Aurangabad.
2. The Additional Collector, Aurangabad.
3. The Land Reforms Deputy Collector, Daud Nagar, Aurangabad.
4. The Circle Officer, Daud Nagar, Aurangabad.
5. Usha Kuer W/o late Purushottam Sharma, Resident of Village Neema,
Police Station Daud Nagar, District- Aurangabad.
6. Ramesh Kumar, S/o Madan Singh, Village- Mahuari, Police Station- Barun,
District- Aurangabad.
7. The Block Development Officer, Masaurhi, Patna.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 11802 of 2019

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Baban Prasad Sharma S/o Late Nand Kumar singh Vill.- Neema, P.s.- Daud
Nagar, Distt.- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Aurangabad
2. The Additional Collector Aurangabad
3. The Land Reforms Deputy Collector Daud Nagar, Aurangabad
4. The Circle Officer Daud Nagar, Aurangabad
5. Usha Kuer W/o Late Purushottam Sharma Vill.- Neema, P.s.- Daud Nagar,
Distt.- Aurangabad
6. Ramamani Devi W/o Narendra Sharma vill.- Makhara, P.s.- Daud Nagar,
Distt.- Aurangabad

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 11800 of 2019

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Baban Prasad Sharma Son of Late Nand Kumar Singh R/o Village-Neema,
P.S.-Daud Nagar, District-Aurangabad

... .. Petitioner/s

Versus



1. The State of Bihar through Collector, Aurangabad
2. The Additional Collector Aurangabad
3. The Land Reforms Deputy Collector Daud Nagar, Aurangabad
4. The Circle Officer Daud Nagar, Aurangabad
5. Usha Kuer W/o Late Purushottam Sharma R/o Village-Neema, P.S.-Daud Nagar, District-Aurangabad
6. Sanju Devi Wife of Pankaj Kumar R/o Village-Nagain, P.S.-Goh, District-Aurangabad

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 11773 of 2019)

For the Petitioner/s : Mr.Pramod Kumar

For the State : Mr.Subash Chandra Yadav (GP-15)

Ms. Sangha Mitra Ghosh, AC to GP 15

(In Civil Writ Jurisdiction Case No. 11802 of 2019)

For the Petitioner/s : Mr.Pramod Kumar

For the State : Mr.Rishi Raj Sinha (SC-19)

Mr. Saurabh Kumar, AC to SC 19

(In Civil Writ Jurisdiction Case No. 11800 of 2019)

For the Petitioner/s : Mr.Pramod Kumar

For the State : Mr.Sajid Salim Khan (SC-25)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 15-07-2019 All the present three writ applications have been filed by the same petitioner, aggrieved by the orders passed by the learned Additional Collector, Aurangabad in Mutation Revision Case Nos.69 of 2016, 68 of 2016 & 66 of 2016.

This is not in dispute that the petitioner had statutory alternative remedy of making appropriate application before the Bihar Land Tribunal (for short 'the Tribunal'), against the orders which are impugned. The writ applications have been filed, nearly 15 months after passing of the impugned orders

There is no justification coming forth as to why these



writ applications should be maintained, despite the petitioner having statutory alternative remedy before the Tribunal.

Learned counsel for the petitioner has, however, submitted that these writ applications may be transferred to the Tribunal, exercising power under Section 15 of the Bihar Land Tribunal Act, 2009 (for short 'the act of 2009').

Section 15 of the Act of 2009 stipulates that all cases connected with the Acts/Manuals dealt with under Section 9 of this Act and pending in the High Court of Judicature at Patna, but excluding writ petitions filed under Articles 226 and 227 of the Constitution of India and cases pending with the State Government, immediately before the commencement of this Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of this Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement.

Proviso to Section 15, however, empowers the High Court to remit the dispute pending adjudication in any writ proceeding before it for adjudication by the Tribunal.

It is true that in appropriate cases the High Court may exercise power under Section 15 of the Act of 2009 to transfer



cases to the Tribunal for adjudication, but in a case where a party, instead of approaching the Tribunal, approaches the High Court under Article 226 of the Constitution of India, such power under *proviso* to Section 15 of the Act of 2009 should normally be not exercised, except in extraordinary and exceptional circumstances.

I do not find it proper, in the facts and circumstances of the case, to exercise such power.

These writ applications are accordingly disposed of with an observation that the petitioner shall be at liberty to approach the Tribunal against the impugned orders.

It goes without saying that if any question of limitation arises before the Tribunal, the same shall be considered, in accordance with law.

(Chakradhari Sharan Singh, J)

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