

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14711 of 2019

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Ajay Kumar Sinha Son of Late Brij Nandan Prasad Resident of Mohalla-Indrapuri, P.S.- Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through D.M. Patna.
2. D.C.L.R. Patna.
3. Gauri Shankar Acharya Son of Late Sita Ram Acharya Resident of Mohalla-Indrapuri Road No- 5, P.O. and P.S.- Patliputra, District- Patna.
4. Parma Nand Jha Son of Not known Resident of Mohalla- Indrapuri Road No- 5, P.O. and P.S.- Patliputra, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suresh Prasad Mr. Anurag Pandey
For the State	:	Mr.Rishi Raj Sinha (SC-19) Mr. Birendra Pd. Singh Ac to SC 19

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 24-07-2019 Heard the learned counsel for the parties.

An order passed by the learned Chairman, Bihar Land Tribunal (for short 'the Tribunal') in BLT Case No. 973 of 2016 is under challenge in the present writ application.

By the impugned order, the learned Chairman has affirmed the order dated 10.03.2016, passed by the appellate authority under the B.L.D.R. Act in Land Dispute Appeal No. 499 of 2013. The appellate authority had set aside an order, passed by the Deputy Collector Land Reforms, which he had passed in purported exercise of power under Section 4(1) of the



Bihar Land Disputes Resolution Act, 2009 (for short 'the Act of 2009').

The learned Chairman of the Tribunal, while affirming the order of the appellate authority, has recorded that the dispute, as raised by the petitioner, before the Deputy Collector Land Reforms was not determined under either of the six enactments, mentioned under the Act of 2009 or by any competent civil court, authority or forum and, in such circumstance, the authorities under the Act of 2009, did not have any jurisdiction to adjudicate upon the dispute between the parties for the first time.

Section 4(2) of the Act of 2009 stipulates that the competent authority shall exercise his jurisdiction and authority for resolving the dispute brought before him on the basis of any final order passed by any of the authorities empowered to do so in the Acts contained in Schedule-1 of the Act of 2009, which contains a list of six enactments as under:-

- “1. The Bihar Land Reforms Act, 1950
2. The Bihar Tenancy Act, 1885
3. The Bihar Privileged Persons
Homestead Tenancy Act, 1947
4. The Bihar Bhoodan Yagna Act,
1954
5. The Bihar Land Reforms (Fixation



of Ceiling and Acquisition of
Surplus Land) Act, 1961

6. The Bihar Consolidation of Holdings
and Prevention of Fragmentation Act,
1956.”

Learned counsel for the petitioner does not dispute that there had been no adjudication/determination under either of the aforesaid enactments.

Sub-section (b) of Section 4(1) can also be a subject-matter of resolution under the Act of 2009, which refers to restoration of possession of settled/allotted land in favour of legally entitled settlee/allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession.

It is evident thus from the language of Section 4(1) (b) of the Act of 2009 that the authorities under the said Act can exercise the power with reference to the said provisions, if there has been adjudication of unauthorized and unlawful possession.

It is clear from the order impugned that the petitioner had relied upon two provisions, as noted above, to establish his case before the Tribunal. Considering the language of the provisions, as referred to above, of the Act and taking into account the observation made in paragraph 47 of the Division Bench decision of this court in the case of **Maheshwar Mandal**,



reported in **2018 (3) PLJR 1007**, the learned Chairman of the Tribunal has dismissed the application and has, thus, affirmed the order of the appellate authority, i.e., the Divisional Commissioner, Patna.

I do not find any illegality or factual infirmity in the order of the Tribunal, considering the language of Section 4(1) (b) of the Act of 2009.

It goes without saying that the petitioner shall be at liberty to approach appropriate forum/competent court of civil jurisdiction, as he may be advised, for adjudication of the dispute.

This writ application is dismissed, but with the aforementioned observation.

(Chakradhari Sharan Singh, J)

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