

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.128 of 2020

In

Civil Writ Jurisdiction Case No.11675 of 1994

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1. Bhagwati Prasad,
 2. Durga Prasad
Both son of Late Asharafi Prasad, both are Resident of Village- Kushahar,
Post Office- Jhanjhawa Bazar, P.S. Mahammadpur, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Additional Member, Board of Revenue, Bihar, Old Secretariat, Patna.
3. The Additional Collector, Gopalganj.
4. The Land Reforms Deputy Collector, Gopalganj.
5. Prabhawati Devi, Wife of Shri Ganesh Singh, Resident of Village- Kushahan, Post Office- Jhanjharwa Bazar, P.S. Mahammadpur, District- Gopalganj.
6. Rampati Devi, Wife of Late Asharfi Prasad, Resident of Village- Kushahan, Post Office- Jhanjharwa Bazar, P.S. Mahammadpur, District- Gopalganj.
7. Pataro Devi, Wife of Late Lal Bahadur Bhagat, Resident of Village- Kushahan, Post Office- Jhanjharwa Bazar, P.S. Mahammadpur, District- Gopalganj.
8. Rajmati Devi, wife of Shri Rajendra Prasad Resident of Village- Kushahan, Post Office- Jhanjharwa Bazar, P.S. Mahammadpur, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Javed Aslam, Advocate Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Md. Khurshid Alam, AAG 12 Mrs. Nutan Sahay, AC to AAG 12

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-09-2021

Heard learned counsel for the parties.

Mr. Javed Aslam, learned counsel for the appellants,



states that appellants want to prefer writ petition for challenging the vires of the Bihar Land Reforms (Fixation and Ceiling Area and Acquisition of Surplus Land) Act, 1961. He further states that a writ petition of the very same nature i.e. CWJC No.8437 of 1990 titled as Subhash Lal Das and Ors. Vs. Md. Salauddin and Ors, has already been preferred challenging the vires of the Bihar Land Reforms (Fixation and Ceiling Area and Acquisition of Surplus Land) Act, 1961, in which notices stand issued to the parties to the *lis*. Also, interest of the appellants therein stands protected by way of an interim order in the said writ petition(s).

We are of the considered view, which fact is not disputed, that if those writ petitions are allowed, the instant appeal would become infructuous. However, if their writ petitions are dismissed, the appeal would have to be adjudicated on merit. The notice in the appeal has yet not been issued.

As such, as prayed for, the appellants are permitted to withdraw the present appeal reserving liberty to file afresh, subject to the outcome of the decision rendered in the writ petition to be filed by the appellants.

The issue of limitation would not come in the way of the appellants, if such appeal is preferred within a period of two months from the date of outcome/decision in the writ petition to



be preferred by the appellants.

Appeal is accordingly disposed of.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2021
Transmission Date	

