

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2313 of 1992

- 1(a) Sudhir Kumar Jha, Son of Late Indra Nath Jha, resident of Village + Post-Koilakh, P.S. Raj Nagar, District-Madhubani.
- 1(b) Shailendra Kumar Jha, Son of Late Indra Nath Jha, resident of Village + Post-Koilakh, P.S. Raj Nagar, District-Madhubani.
- 1(c) Satendra Kumar Jha, Son of Late Indra Nath Jha, resident of Village + Post-Koilakh, P.S. Raj Nagar, District-Madhubani.
- 1(d) Ajit Kumar Jha, Son of Late Indra Nath Jha, resident of Village + Post-Koilakh, P.S. Raj Nagar, District-Madhubani.

... .. Petitioners

Versus

1. The Member, Board of Revenue, Bihar, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Collector, Madhubani.
4. The Additional Collector, Madhubani.
5. The Deputy Collector, Land Reforms-cum-Demarcation Officer, Madhubani.
- 6(a) Devendra Chaudhary, Son of Late Upendra Chaudhary, resident of Village- Koilakh, P.S. -Raj Nagar, District-Madhubani.
- 6(b) Gajendra Choudhary, Son of Late Upendra Chaudhary, resident of Village- Koilakh, P.S. -Raj Nagar, District-Madhubani.
- 6(c) Gulab Devi, Wife of Late Surya Narayan Jha, resident of Village+Post- Sugauna, P.S. -Raj Nagar, District-Madhubani.
- 6(d) Maha Kali Devi, Wife of Nirmal Narayan Jha, resident of Village- Thadhi, Post-Thadhi, P.S.-Thadhi, District-Madhubani.
- 6(e) Renu Devi, daughter of Late Upendra Chaudhary, resident of Village- Koilakh, P.S. Raj Nagar, District-Madhubani.

... .. Respondents

Appearance :



For the Petitioners : Mr. Abhay Prakash Sahay, Advocate
For the State : Mr. G.P. 5.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

25 02-12-2021 Heard learned counsels appearing on behalf of the parties.

The following is the relief sought for in the present writ application:

“1. For issuance of a writ in the nature of a writ of certiorari or for any other appropriate writ, order or direction for quashing the resolution of the Member, Board of Revenue, Bihar, Patna, dated 26th November, 1991 passed in Case No. 559 of 1990, upholding the order dated 20th August, 1990, passed by the Commissioner, Darbhanga Division, in Case No. R-467/82-83, whereby and whereunder the Commissioner has upheld the order passed by the Collector Madhubani dated 17th September, 1982 in Misc. Case No. 208/79-80, who in turn has upheld the order passed by the Land Reforms Deputy Collector-cum-Demarcation Officer, Madhubani, dated 15th February, 1980, whereby and whereunder the Land Reforms Deputy Collector has been pleased to confirm the report submitted by Shri Kapildeo Singh, Pleader Commissioner, on the ground that the same has been approved and confirmed by the Additional Collector, Madhubani, as contained in Annexures-16, 15, 14 and 13 respectively; and, further for issuance of a writ in the nature of a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to have the demarcation done through the



Demarcation Deputy Collector with his own establishment i.e., Amin and Kanungo.”

At this juncture, it is pertinent to refer to the object and provisions of The Bihar Land Tribunal Act, 2009. The Bihar Land Tribunal Act, 2009, was enacted, *inter-alia*, as it was deemed expedient to create a consolidated forum for adjudication of all disputes arising out of The Bihar Land Reforms Act, 1961, The Bihar Tenancy Act, 1885, The Bihar Consolidation Act, 1956 and other Acts as mentioned in Section 9 of the Bihar Land Tribunal Act, 2009. Thus, the Legislature deemed it necessary to create a tribunal, known as Bihar Land Tribunal, at the highest level in the hierarchy.

Section 9 of The Bihar Land Tribunal Act, 2009, discusses the power of the Bihar Land Tribunal and reads as follows:

“Section 9-Powers of the Tribunal

(1) The Tribunal shall have the power to entertain any application against the final order passed by the Appropriate Authorities under the Acts/Manuals, mentioned below, within 90 days of such an order provided no other forum of appeal or revision against the order passed is provided in that Act/Manuals:

(i) The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961

(ii) The Bihar Land Reforms Act, 1950

(iii) The Bihar Tenancy Act, 1885



(iv) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956

(v) The Bihar Tenants' Holdings (Maintenance of Records) Act, 1973

(vi) The Bihar Bhoodan Yagna Act, 1954

(vii) The Bihar Privileged Persons Homestead Tenancy Act, 1947

(viii) The Bihar Government Estates Manual, 1953

(ix) The Bihar Settlement Manual

It shall be open to the State Government to add or remove any Law/Manual in or from the list hereinafter mentioned.

(2) In addition, the Tribunal shall decide any case transferred to it by the Government of Bihar or by the Hon'ble High Court of judicature at Patna with regard to any other revenue or land reforms Law/Manual for the time being in force.

(3) The Tribunal shall have powers vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) including the power to recommend to punish for Contempt of Court."

Section 15 of The Bihar Land Tribunal Act, 2009, deals with the Transfer of proceedings pending in Patna High Court/State Government to the Tribunal and reads as follows:

"Section 15-Transfer of proceedings pending in Patna High Court/State Government to the Tribunal.

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: Provided further that it shall be open to the High Court of judicature at Patna to remit the dispute pending adjudication in any writ proceeding before it for adjudication by the Tribunal.”

Taking into account, the object and above referred provisions of the Act, the present dispute is remitted to the Bihar Land Tribunal. The petitioners are granted liberty to file an application before the Bihar Land Tribunal within ninety days from today. It is needless to say that in case any such application is filed, the Tribunal shall hear the matter after giving proper notice to the parties concerned and pass an appropriate order in accordance with law. It is worthwhile to indicate here that in case during pendency of this writ application before this Court, any of the party has died then their legal heirs will be duly substituted/impleaded as party to the case before the Bihar Land Tribunal after following the procedure as prescribed by law.

Since the matter is pending for a long period of time, it is expected that the Tribunal shall give priority to such old disputes and if possible, dispose of such application, at the



earliest, preferably within a period of one year from the date of filing of such application.

With the aforesaid observation, this writ application is disposed of.

(Sudhir Singh, J)

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