

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4362 of 1998

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- 1 (a) Harun Nisa, Wife of Late Abul Hussain, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
1(b) Naushad Alam, Son of Late Abul Hussain, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
1(c) Md. Irshad Alam, Son of Late Abul Hussain, under the Guardianship of his mother, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
1(d) Dilshad Alam, Son of Late Abul Hussain, under the Guardianship of his mother, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
1(e) Albala Khatoon, D/O Late Abul Hussain, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
1(f) Shahin Begum, D/O of Late Abul Hussain, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
2. Md. Shamsheer Alam, Son of Safir Alam alias Safique Alam, under the Guardianship of Safir Alam, father and natural guardian with whom he has no adverse interest.
3. Md. Babul, Son of Ramzan Ali, under the guardianship of Ramzan Ali, father and natural guardian with whom he has no adverse interest, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.
4. Kamre Alam, Son of Fazlur Rahman, under the guardianship of Fazlur Rahman, father and natural guardian with who he has no adverse interest, resident of Village-Kusyari, P.S. Pothia, District-Kishanganj.

... .. Petitioners

Versus

1. The State of Bihar.
2. The Sub Divisional Magistrate, Kishanganj.
3. The Circle Officer, Pothia, District-Kishanganj.
4. Zahidur Rahman, Son of Late Abdul Ghani, resident of Village- Kusyari, P.S. Pothia, District-Kishanganj.

... .. Respondents

Appearance :

For the Petitioners : Mr. J.S. Arora, Sr. Advocate and Mr. Najmul Hoda, Advocate.
For the Respondents : None

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

10 02-12-2021 Heard learned senior counsel for the petitioners.

None appears for the respondents.

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



“1. For quashing the entire proceedings (contained in Annexure-1) of Case No. 68/1996-97 including the order dated 18.2.97 of the court of the Circle Officer, Pothia, and for quashing the order dated 10.03.1998 (contained in Annexure-5) of the Sub Divisional Magistrate, Kishanganj, passed in Case No. Appeal 3/1997 rejecting the appeal of the petitioners and affirming the order of the Circle Officer declaring the respondent no. 4 as a raiyat under the provision of the Section 48-D of Bihar Tenancy Act in the circumstances set forth below.”

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 hereinafore 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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