

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13459 of 2002

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1. Doman Mahton, son of Late Kutai Mahton
2. Kuldeep Mahton, son of Doman Mahton
3. Mahendra Mahton, son of Late Anandi Mahton
4. Upendra Mahton son of Late Anandi Mahton
5. Brahmdeo Mahton, son of Late Anandi Mahton
6. Shankar Mahton, son of Maheshwar Mahton
7. Umesh Mahton, son of Late Ajab Lal Mahton

All are residents of village Dildarpur, Bind Tola, P.S.- Nath Nagar, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum- Secretary, Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Patna.
2. The Collector, Bhagalpur
3. The Land Reforms Deputy Collector, Bhagalpur.
4. Girwar Narayan Rai, son of Late Feku Rai, resident of village Narkatiya, P.S.- Bihpur, District- Bhagalpur.
5. Suresh Mahto, son of Late Anandi Mahto, resident of village Dildarpur Bind Tola, P.s.- Nath Nagar, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Purushottam Kumar Jha
For the Respondent/s : Mr.Gp2

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

13 16-12-2021 Heard the parties.

The present writ application has been filed on behalf
of the petitioners for the following relief(s):

- i) Issuance of an appropriate order, direction or writ in the nature of certiorari quashing the order dated 6.9.2002 passed by the respondent no. 2 in Batai Appeal Case No. 162/1997-98 whereby the respondent no. 2 has rejected the appeal so preferred by the petitioners whereby the petitioners and respondent no. 5 had challenged the legality and validity of the order passed by the respondent no. 3 in Bataidari Case No. 88/1997.
- ii) Issuance of an appropriate order, direction or writ



in the nature of certiorari quashing the order dated 18.2.1998 passed by the respondent no. 3 in Bataidari Case no. 88/1996-97 whereby the respondent no. 3 has rejected the bataidari case, filed by the petitioners stating inter alia therein that the case is not maintainable.

iii) Consequent upon the quashing of the aforesaid orders impugned dated 6.9.2002 and 18.2.1998 (Annexures-4 and 3 respectively), the respondent no. 3 may further be directed to rehear/reconsider/decide the case of the petitioners on merit, in accordance with the provisions of section 48(E) of the Bihar Tenancy Act, 1885 afresh.

iv) Issuance of an appropriate order, direction or declaration that the respondent no. 4 is the real land lord of the bataidari land in question as detailed in annexure-2 to this writ petition.

v) Issuance of an appropriate order/direction or declaration that selling of the land in question, either by the respondent no. 4 or by his sons if any after the filing of Bataidari case no. 88/1996-97 will not create any bar for the respondent no. 3 while declaring the petitioners as the bataidars of the land in question.

vi) Issuance of an appropriate order, direction or writ in the nature of mandamus commanding the respondents first set not to disturb the petitioner in any manner from their respective possession on the bataidari land in question of which the respondent no. 4 is the real owner/land lord.

vii) For any other relief or reliefs to which the petitioners may be found entitled to in the facts and in the circumstances of this case.

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 read 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 Yagya 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 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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