

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10884 of 2008

1. Kashi Nath Dubey.
2. Birendra Dubey @ Birendra Kumar Dubey.
3. Dudhnath Dubey, Sons of Late Rajendra Dubey. All residents of Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Petitioners

Versus

1. The State of Bihar.
2. Director, Consolidation, Bihar, Patna.
3. Joint Director, Consolidation, Headquarter, Patna.
4. Deputy/Assistant Director, Consolidation, Rohtas.
5. Consolidation Officer, Kargahar, Rohtas.....Respondents Ist Set.
6. Bansh Narain Dubey, Son of Late Chandrika Dubey.
7. Mritunjai Dubey, Son of Bansh Narain Dubey. Respondent Nos. 6 and 7 are R/O Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Respondent 2nd Set

with

Civil Writ Jurisdiction Case No. 11193 of 2008

1. Kashi Nath Dubey.
2. Birendra Dubey.
3. Dudhnath Dubey, Sons of Late Rajendra Dubey. All residents of Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Petitioners

Versus

1. The State of Bihar.
2. Director, Consolidation, Bihar, Patna.
3. Joint Director, Consolidation, Headquarter, Patna.
4. Deputy/Assistant Director, Consolidation, Rohtas.
5. Consolidation Officer, Kargahar, Rohtas.....Respondents Ist Set.
6. Bansh Narain Dubey, Son of Late Chandrika Dubey.
Respondent No. 6 is R/O Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Respondent 2nd Set

with

Civil Writ Jurisdiction Case No. 13219 of 2008

1. Kashi Nath Dubey.
2. Birendra Dubey @ Birendra Kumar Dubey.
3. Dudhnath Dubey, Sons of Late Rajendra Dubey. All residents of Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Petitioners

Versus



1. The State of Bihar.
2. Director, Consolidation, Bihar, Patna.
3. Joint Director, Consolidation, Headquarter, Patna.
4. Deputy/Assistant Director, Consolidation, Rohtas.
5. Consolidation Officer, Kargahar, Rohtas.....Respondents Ist Set.
6. Bansh Narain Dubey, Son of Late Chandrika Dubey, Respondent No. 6 is
R/O Village-Baishpura, P.S. Kargahar, District-Rohtas.

... .. Respondent 2nd Set

Appearance :

(In Civil Writ Jurisdiction Case No. 10884 of 2008)

For the Petitioners : Mr. Rewti Kant Raman, Advocate.

For the State : Mr. S.C. 23

For the Respondent Nos.

6 and 7 : M/S. Pushkar Nath Singh and Ram Ishwar Prasad,
Advocates.

(In Civil Writ Jurisdiction Case No. 11193 of 2008)

For the Petitioners : Mr. Rewti Kant Raman, Advocate

For the State : Mr. Kinkar Kumar, S.C. 9 and Ms. Deepika
Sharma, A.C. to S.C.9

For the Respondent No.6: M/S. Pushkar Nath Singh and Ram Ishwar Prasad,
Advocates.

(In Civil Writ Jurisdiction Case No. 13219 of 2008)

For the Petitioners : Mr. Rewti Kant Raman, Advocates

For the State : Mr. Sita Ram Prasad, A.C. to G.P. 16.

For the Respondent No. 6: M/S. Pushkar Nath Singh and Ram Ishwar Prasad,
Advocates.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

8 23-12-2021 Heard learned counsels appearing on behalf of the
parties.

The following are the reliefs sought for in the present
writ applications:

Re.: C.W.J.C. No. 10884 of 2008:

“1. That this application is for quashing the order dated 05.05.2008, passed by the Joint Director, Consolidation, Headquarter, Patna, in Consolidation Revision No. 266/1997 contained in Annexure-6 by which the respondent no. 3 has dismissed the revision petition filed on behalf of petitioners and affirmed the order dated 17.07.1997, passed by the



Assistant Director, Consolidation, Rohtas, in Consolidation Appeal No. 961/91-92 behind the back of the petitioners without fixing the case for ex-parte hearing of respondent nos. 6 and 7 though he was bound to dismiss the case in default as petitioners were not appearing before him as in other cases he used to pass such order of dismissal in default.”

Re.: **C.W.J.C. No. 11193 of 2008:**

“1. That this application is for quashing the order dated 05.05.2008, passed by the Joint Director, Consolidation, Headquarter, Patna, in Consolidation Revision No. 40/2000, contained in Annexure-4 by which the respondent no. 3 has allowed the revision petition filed on behalf of private respondents without fixing the case for ex-parte hearing directly without moving him in any subordinate courts without considering the maintainability of the revision case and has held that 1 dec. of southern portion of R.S. Plot No. 478 is amalgamated in northern portion of R.S. Plot No. 468 without looking towards the C.S. Map and R.S. Map as same were not filed before him.”

Re.: **C.W.J.C. No. 13219 of 2008:**

“1. That this application is for quashing the order dated 05.05.2008, passed by the Joint Director, Consolidation, Headquarter, Patna, in Consolidation Revision No. 406/1993, contained in Annexure-8 by which the respondent no. 3 has allowed the revision petition filed on behalf of respondent no. 6 and set aside the order dated 13.07.1993, passed by the Assistant Director, Consolidation, Rohtas, in Consolidation Appeal No. 641/90-91, contained in Annexure-4, behind the back of the petitioners without



fixing the case for ex-parte hearing, without considering the merit of the case and without looking towards the documents filed on behalf of respondent no. 6.”

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 hereinfore 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 these writ applications 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 these matters are 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, these writ applications are disposed of.

(Sudhir Singh, J)

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