

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18188 of 2014**

Vijay Narayan Singh Son of Late Lajja Singh Resident of Village - Dariyapur,  
P.S. - Bihta, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector cum District Magistrate, Patna
3. The Additional Collector Sadar, Patna
4. The Deputy Collector Land Reforms Danapur, Patna
5. Vijendra Kumar Son of Late Ramji Singh
6. Arun Kumar Son of Naulakh Singh
7. Ashwini Kumar Son of Chandeshwar Singh
8. Sanjit Kumar Son of Kameshwar Singh
9. Sudhir Singh Son of Kapildeo Singh
10. Surendra Singh Son of Jhalak Singh All residents of Village - Dariyapur, P.S.  
- Bihta, District - Patna

... .. Respondent/s

**Appearance :**

|                      |   |                                |
|----------------------|---|--------------------------------|
| For the Petitioner/s | : | Mr. Dudh Nath Singh, Adv.      |
|                      | : | Mr. Dhananjay Kumar, Adv.      |
| For the Respondent/s | : | Mr. Rohitabh Das, AC to AAG-13 |

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 27-06-2023**

Heard learned counsel for the petitioner and  
learned counsel for the State.

2. The present application has been filed for quashing the order dated 24.10.2008 passed in Demarcation Case no. 47 of 2006-07 as well as setting aside the order dated 27.04.2014 passed in Demarcation Appeal no. 13 of 2008-09.

3. Counsel for petitioner submits that he has filed a Demarcation Case no. 47 of 2006-07 before the Court of Deputy Collector Land Reforms, Danapur, Patna in which vide order dated 17.04.2007 and order was passed for demarcation of land. Counsel submits that being aggrieved by the said order, the

present respondent has preferred appeal bearing Demarcation Appeal no. 02 of 2007-08. Counsel submits that in this matter, the application relating to appeal was dismissed and records were returned to the lower Court. On the said order plaintiff aggrieved and Thereafter, the petitioner has appeared in the original case namely, Demarcation Case no. 47 of 2006-07 in which vide order dated 24.10.2008 (Annexure-1), the original Court has stopped the proceeding on the ground that the said court has no jurisdiction for demarcation and this issue is beyond the jurisdiction of this Court. Against the said order, the petitioner has preferred appeal bearing Demarcation Appeal no. 13 of 2008-09. The final order in the said demarcation appeal was made on 27.04.2014 in which the said demarcation appeal was dismissed on merit considering every factual matrix of the case.

4. Counsel for petitioner submits that the Court of DCLR has no power to review its own order dated 17.04.2007 passed in Demarcation Case no. 47 of 2006-07 by order dated 24.10.2008. Counsel relied on order passed in case of Sheo Narayan Pathak Vs. State of Bihar & Ors in C.W.J.C. No. 1710 of 2009 which was affirmed up to LPA No. 1113 of 2014 vide order dated 19.07.2013 and 19.09.2016 respectively.

5. Counsel for State submits that the appellate order dated 23.06.2008 was not passed on merit and in the said order,

it has been observed by the Appellate Court that final decision of the lower Court has not been completed and it is due to this reason, he has dismissed the appeal as premature and returned back the record to the lower court.

6. Counsel further submits that under law, the order under challenge before this Court is not entertainable due to the reason that there is special statute framed to listen such type of dispute that is Bihar Land Tribunal and the petitioner has come before this Court without exhausting the remedy under Bihar land Tribunal.

7. In this background, learned counsel for the petitioners seeks permission prefer an appropriate application before the Bihar Land Tribunal, in view of the provisions of Sections 9 and 15 of the Bihar Land Tribunal Act, 2009 ( Bihar Act 9 of 2009), which reads as under :-

***“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) [xxx]*

- (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*
- (x) Bihar Land Disputes Resolution Act, 2009*
- (xi) Bihar Special Survey and Settlement Act, 2011.*
- (xii) Bihar Land Mutation Act, 2011*

*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.*

***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."*

8. Since the present writ petition relates to Bihar Land Disputes Resolution Act, 2009( Bihar Act 4 of 2010) which is a schedule Act, under Section 9 of the Bihar Land Tribunal Act, 2009 (Bihar Act 9 of 2009), this Court is of the opinion that the matter can well be adjudicated by the Tribunal

9. Accordingly, in view of proviso to Section 15 of the Bihar Land Tribunal Act, 2009, the Registry is directed to transmit the record of this case to the Tribunal forthwith.

10. However, it is expected that the Tribunal will hear and disposed of the case within a period of nine months from the date of receipt of record of this case after sending and service of notices to all the parties concerned, including the petitioner.

11. Accordingly, the present writ application is hereby disposed off.

**(Dr. Anshuman, J.)**

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