

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3449 of 2009

1. Nawal Mahto, son of Late Shukar Mahto.

2. Awadh Mahto, son of Late Shukar Mahto.

Both are the resident of Vill- Goriari, P. S. Bhadaur, Dist- Patna,
Petitioners.

Versus

1. The State of Bihar

2. The deputy Collector, Land Reforms Barh, Dist- Patna.

3. Most Dayawanti Devi, wife of Late Ram Lakhan Arya,

4. Vidyanand Sao, son of Late Ram Lakhan Arya,

5. Devendra Sao, son of Late Ram Lakhan Arya.

6. Dayanand Sao, son of Late Ram Lakhan Arya,

7. Surendra Sao, son of Late Ram Lakhan Arya,

All from 3 to 7 are the resident of Gola Road, Salempur, Barh Bazar, P.O. & P.
S. Barh, Dist- Patna,

..... Respondents,

Appearance :

For the Petitioner/s : Mr. Arun Kumar Arun, Advocate
For the Respondent/s : Mr. Manish Kumar-2, GP15

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 24-02-2023 Heard learned counsel for the parties.

The petitioner has filed the instant writ application for
the following relief(s):-

“1. That this is an application for issuance of a writ in the nature of certiorari of an appropriate writ, order or direction for quashing of the order dated 21.11.2008 passed by Respondent no.2 (the



D. C. L, R., Barh) in Bataidari case No.2/08, "Nawal Mahto and Anr Vrs. Dayavanti Devi & other " by which he rejected the petition filed on behalf of the petitioners under section 48E of the Bihar Tenancy Act holding therein that the petitioners on the basis of the evidences produced by them, they could not be declared Bataidar under section 48E of the Bihar Tenancy Act and be further pleased to issue a writ in the nature of Mari Mandamus or an appropriate writ, order or direction commanding the respondent no.2 to constitute a Bataidari Board in accordance with the law and to refer the dispute between the parties to it for proceeding in accordance with the law. And/or be further pleased to pass such other order/orders which may be deemed fit and proper in the facts and circumstances of the case."

It is submitted by learned counsel appearing for the respondents that the petitioner has an alternate and efficacious remedy of pursuing his case before the tribunal constituted under the Bihar Land Tribunal Act, 2009 ('the Act' in short)

Sections 9 and 15 of the Act are quoted herein below for ready reference.

"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.

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.”

Having heard the parties and taking into consideration the relevant provisions of the Act, especially section 9 and proviso to section 15 of the Act, the instant application is remitted to the learned tribunal constituted under the Act for adjudication in accordance with law.

Before the records are sent, the office of this Court will retain a complete photocopy of the order sheet as also a complete copy of the petition along with all annexures etc.. Thereafter, the original records will be transferred to the tribunal constituted under the Act.

The parties who have appeared in the writ application shall appear before the tribunal within a period of four weeks. With respect to those who have not appeared, the tribunal shall notify the date and place of hearing as provided under Rule 12 of the Bihar Land Tribunal Rules 2010 and thereafter proceed to



decide the case in accordance with law.

It is clarified that the interim order/protection, if any, granted to the petitioner in the instant application shall continue till the first date of hearing in the tribunal.

The writ application stands disposed of.

(Partha Sarthy, J)

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