

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18652 of 2015

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1. Most. Chandrawati Devi W/o Late Shatrughan Upadhya
 2. Kripa Shankar Upadhyay,
 3. Shiva Bihari Upadhya,
 4. Satyendra Upadhya, 2 to 4 sons of Late Shatrughan Upadhya, All resident of village and P.O. - Majharia P.S. - Buxar Industrial District - Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Revenue and Land Reforms Depatt., Bihar Main Secretariat, Patna.
3. The Member, Board of Revenue, Bihar Main Secretariat, Patna. null null
4. Abhimanuy Upadhya,
5. Baban Upadhya Both sons of Late Siddha Nath Upadhya, Resident of Village and P.O. - Majharia, P.S. - Buxar Industrila, District - Buxar.
6. Rajendra Upadhya
7. Lakchman Upadhya, Both sons of Late Kailash Upadhya, Resident of Village and P.O. - Majharia, P.S. - Buxar Industrial, District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Adv.
For the Respondent/s	:	Mr. Ajay, GA12

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 12-09-2023 Heard learned counsel for the petitioners and learned counsel for the State.

2. The present writ petition has been filed for quashing the order dated 31.08.2013 passed by Member, Board of Revenue, Bihar by which he has allowed Board Case no. 265 of 2004 filed by the respondent second set.

3. After some argument, 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.”

4. Since the present writ petition relates to the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 [Bihar Act 12 of 1962] 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

5. 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.

6. 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.

(Dr. Anshuman, J.)

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