

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8644 of 2007

1. Barister Singh
2. Ramjee Singh
3. Bharat Singh
4. Laxman Singh
5. Ashutosh Bahadur Singh All Sons of Atal Singh All Residents of Village- Ramgarh, P.O. Memrejpur, P.S. Chenari, Distt. Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Consoliation , Bihar, Patna.
3. The Assistant Director of Consolidation, Rohtas at Sasaram.
4. The Consolidation Officer, Chenari, Distt. Rohtas.
- 5.1. Fulwas Kuer Wife of late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.2. Uma Shankar Singh Late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.3. Rama Shankar Singh Late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.4. Kripa Shankar Singh Late Amerika singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.5. Nagjari Devi D/o late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.6. Hirajari Devi D/o late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 5.7. Ranju Devi D/o late Amerika Singh Resident of Village- Ramgarh, P.S. Chenari, District- Rohtas.
- 6.1. Soman Sah Son of Krishna Sah Resident of Village- Murhi, P.S. Sasaram, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Pandey, Advocate Mr. Shashi Bhushan Singh No.1, Advocate Mr. Chandra Shekhar Verma, Advocate
For the Respondent/s	:	Mr. GA-4
For the State	:	Mr. A.K. Dubey, AC to AAG-1

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

11 24-02-2023

Heard learned counsel for the parties.

The petitioners have filed the instant writ application for the following relief(s):-



“I). For issuance of an appropriate writ, order or direction in the nature of 'Certiorari' to quash the order dated 5.6.2007 passed by the Joint Director, consolidation (Head quarter), Bihar, Patna in Revision Case No. 752 of 1989 which has been passed contrary to the direction passed by this Hon'ble court in C.W.J.C. No. 8548 of 1997 on 2.11.1998 by Hon'ble Mr. Justice S.J. Mukhopadhyay.

II). For issuance of an appropriate writ, order or direction in the nature of 'Mandamus' commanding and directing the respondents to affirm the order dated 7.1.1984 passed in Case No. 21/83- 84 by the consolidation Officer, Chenari, District- Rohtas by setting aside the order dated 22.11.1988 passed by the Assistant Director of consolidation, Rohtas at Sasaram passed in Appeal No. 1262 of 1983-84 under Section 10(6) of the consolidation Act.

III). For issuance of an appropriate writ, order or direction in the nature of 'Mandamus' directing and commanding the concerned respondents to prepare Chak Khatiyani in name of petitioners with respect to the land transferred in their favour by virtue of registered sale deed dated 31.1.1977 executed by Tetari Kuer.”

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 hereinafore 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 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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