

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14743 of 2010

1. YAMUNA RAM S/O Late Jhulni Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
2. Dev Poojan Paswan S/O Late Somaru Paswan R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
3. Paras Ram S/O Late Anant Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
4. Surjmukhi Devi W/O Late Raghu Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
5. Dhanmuna Kunwar W/O Late Ram Awtar Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
6. Shankar Ram S/O Late Babu Nandan Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
7. Suryawansh Ram S/O Late Belas Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas
8. Shashi Prakash S/O Lallu Ram R/O Vill.- Konar, P.S.- Shiv Sagar, Distt.- Rohtas

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Secretary Department Of Revenue And Land Reforms, Govt. Of Bihar, Patna
3. Deputy Secretary Department Of Revenue And Land Reforms, Govt. Of Bihar, Patna
4. Collector, Rohtas At Sasaram
5. Deputy Collector, Land Reforms, Rohtas At Sasaram
6. Sub-Divisional Officer, Rohtas At Sasaram
7. Circle Officer, Shivsagar, Distt.- Rohtas At Sasaram
8. Ramakant Singh S/O Late Sakhichand Singh R/O Vill.- Konar, P.S.- Shivsagar, Distt.- Rohtas At Sasaram At present Village Dumra, P.O. Badki Mahuli, P.S. Karagahar, Dist. Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate
For the Respondent/s : AC to SC 2

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 24-02-2023

Heard learned counsel for the parties.



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

“1. That, this is an application for issuance of an appropriate writ, order or direction of setting aside the District Gazette Notification No.30 dated 19th March 1983 issued by the Collector Rohtas at Sasaram by which he repeated the earlier District Gazette (Sasaram) Notification No.237 dated 26th September, 1978 issued by the Deputy Secretary, Department of Revenue and Land Reforms, Govt. of Bihar Whereby and whereunder the land of the land holder i.e, Respondent 2nd party was acquired as Surplus land without initiating any proceeding and without giving any notice to the petitioners in whose favour the Basgit parches were issued, out of the said land under the Bihar Privileged persons Homestead Tenancy Act vide Case No.2 (Ka) / 90-91.

A true /photocopy of the District Gazette Notification No. 30 dt. 19th March, 1983 is annexed is annexed herewith and marked Annexure-1 to this writ application”

It is submitted by learned counsel appearing for the respondents that the petitioners have an alternate and efficacious remedy of pursuing their 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 petitioners in the instant application shall continue till the first date of hearing in the tribunal.

The writ application stands disposed of.

(Partha Sarthy, J)

Spd/-

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