

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14530 of 2010

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1. NEPAL MAHTO, S/O Late Bhadaï Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 2. Sri Jatan Mahto S/O Late Dwarika Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 3. Bashisth Mahto S/O Late Dwarika Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 4. Rudal Mahto S/O Late Ayodhya Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 5. Baidyanath Mahto S/O Late Kali Prasad Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 6. Bindeshwari Mahto S/O Late Akku Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar
 7. Kishundeo Mahto S/O Late Bathu Mahto Bhoodan Tenant, R/O Vill.- Gandhi Gram Bind Toli, P.S. Kursela, P.O.- Ayodhyaganj Bazar, Kursela, Distt.- Katihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna
2. The Chief Secretary Govt. Of Bihar, Old Secretariat, Patna
3. Revenue Commissioner-Cum-Secretary Govt. Of Bihar, Old Secretariat, Patna
4. The Collector, Katihar, Distt.- Katihar
5. Addl. Collector, Katihar, Distt.- Katihar
6. Sub Divisional Officer, Katihar, Distt.- Katihar
7. Circle Officer, Barari Prakhand, Distt.- Katihar
8. Circle Officer, Kursela, Distt.- Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sarvendra Kumar Verma, Advocate
For the Respondent/s : Mr. Mritunjay Kumar, AC to GP 3

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY



ORAL ORDER

6 24-02-2023 Heard learned counsel for the parties.

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

“i) Issuance of direction order or writ in the nature of mandamous directing the respondents not to disturb peaceful and rightful possession over the land which the petitioners have got from the Bihar Bhoodan Yagna Committee by issuance of Praman Patras u/s 14 of the Bihar Bhoodan Yagna Act 1954 after confirmation of the land u/s 11 of the Bihar Bhoodan Yagna Act.

ii) Issuance of direction order or writ in the nature of mandamous directing the respondents not to distrub the Bhoodan tenants, lands which have already been given to the petitioners and very many other similarly situated persons by issuance of Praman Patras by the Bihar Bhoodan Yagna Committee u/s 14 of the Bihar Bhoodan Yagna Act 1954 by illegally holding the aforesaid land under ceiling proceeding for distribution of the land aforesaid in the scheme of Red Card Holders as the land given to petitioners and similarly situated persons by Bihar Bhoodan Yagna Card Holders is an illegal manner.

iii) Any other reliefs or reliefs for which the petitioners may be deemed entitled to.”

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 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, 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)

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