

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16668 of 2016

1. Mini Rani Sinha and Anr W/o Late Kalanand Kumar, R/o Village-Dhruvganj, Police Station- Kharik, District- Bhagalpur.
2. Suresh Singh aged 55 years, Son of Late Kameshwar Singh, resident of Vill.- Basadih, Post- Bodh Gaya, P.S.- Bodh Gaya, Distt. Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
3. The Collector, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Additional Collector Ceiling, Gaya.
6. The Circle Officer, Bodh- Gaya.
7. Harihar Paswan, Son of Bansai Paswan, resident of Village- Narkatia, P.S.- Bodh-Gaya, District- Gaya.
8. Munni Lal Choudhary Son of Karu Choudhary
9. Savitri Devi Daughter of Girdhari Choudhary
10. Sushila Devi, W/o Padarath Paswan, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
10. Ram Janam Paswan, Son of Padarath Paswan, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
10. Mithilesh Paswan, Son of Padarath Paswan, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
10. Ram Kumar Paswan, Son of Padarath Paswan, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
10. Ram Janam Paswan, Son of Padarath Paswan, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
11. Yogendra Choudhary Son of Karu Choudhary
12. Doman Choudhary, Son of Naresh Choudhary, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
12. Santosh Choudhary, Minor Son under the guardianship of his mother Janki Devi, R/o Village Narkatiya, P.O. and P.S. Bodh Gaya, Distt. Gaya.
13. Manoj Paswan Son of Ghanshyam Paswan
14. Sunita Devi wife of late Suraj Choudhary
15. Rajenddra Choudhary Son of ...
16. Bindu Choudhary Son of Munnilal Choudhary
17. Suresh Paswan Son of Rambriksha Paswan
18. Rajendra Paswan Son of Rambriksha Paswan
19. Umesh Paswan Son of Rambriksha Paswan
20. Dinesh Paswan Son of Rambriksha Paswan
21. Sonamati Devi, W/o Indra Paswan, R/o Village and P.O. Sahaypur, P.S. Muffasil, Distt. Gaya.

21. Suresh Paswan, Son of Indra Paswan, R/o Village and P.O. Sahaypur, P.S. Muffasil, Distt. Gaya.
22. Sundarwa Devi W/o of late Narayan Paswan, Resident of Village- Narkatiya, P.O. and P.S. Bodh Gaya, District- Gaya.
22. Umesh Paswan, Son of Late Narayan Paswan, Resident of Village- Narkatiya, P.O. and P.S. Bodh Gaya, District- Gaya.
24. Kapil Paswan Son of Karu Paswan
25. Kailash Choudhary Son of Jhangu Choudhary
26. Deo Choudhary Son of Dukhan Choudhary
27. Jaglal Choudhary Son of Sukhari Choudhary
28. Bala Paswan, Son of late Ramautar Paswan, Resident of Village- Narkatiya, P.O. and P.S. Bodh Gaya, District- Gaya.
28. Baleshwar Paswan, Son of late Ramautar Paswan, Resident of Village- Narkatiya, P.O. and P.S. Bodh Gaya, District- Gaya.
28. Ranjit Paswan, Son of late Ramautar Paswan, Resident of Village- Narkatiya, P.O. and P.S. Bodh Gaya, District- Gaya.
29. Ramdeo Paswan Son of Sarju Paswan
30. Jhanki Devi Wiife of Naresh Choudhary
31. Kailash Paswan Son of Mahabir Paswan. All are resident of Village- Narkatiya, P.O. P.S. Bodh Gaya, District- Gaya.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Adv.
For the Respondent/s : Mr. Md. Khurshid Alam,AAG-12

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

13 04-07-2023 Heard learned counsel for the petitioners and learned counsel for the State.

2. The present writ petition has been filed for restraining the so called Purcha holders from disturbing the rightful possession of the petitioner over the land earmarked within the unit of the Petitioner's mother in terms of Order dated 12.12.2015 passed by the Additional Collector (Ceiling) Gaya in compliance of the Order passed by the Hon'ble Court dated

15.10.2015 in CWJC No. 3632 of 2015 with further prayer to declare the Notification dated 16.11.1992 issued under Section 15(1) of the Bihar Land Reforms (Fixation of ceiling area and acquisition of surplus land) Act, 1961, non-existent and non-operative in view of the order dated 28.08.1995 passed by the Board of Revenue which acquired finality.

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 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."

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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