

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1005 of 2012

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LAXMI DEVI W/O Sri Lakhi Prasad Singh R/O Village- Parmanandpur, P.S.-
Korha, District- Katihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through Addl. Collector, Katihar, Collectorate, Mirchaibari, Katihar
2. The Deputy Collector, Land Reform Katihar, Sub-Divisional Office, At and P.O.- Mirchaibari, District- Katihar
3. The Circle Officer, Korha, At and P.O. - Korha, District - Katihar
4. Ram Kumar Mehta S/O Late Dukhan Mandal
5. Sanjai Narain Mehta S/O Late Dukhan Mandal
6. Mahendra Mehta S/O Late Dukhan Mandal
7. Ashok Kumar Mehta S/O Late Dukhan Mandal
8. Birendra Mehta S/O Late Dukhan Mandal
9. Prakash Mehta S/O Late Dukhan Mandal
10. Arun Mehta S/O Late Dukhan Mandal
11. Tetari Devi D/O Late Dukhan Mandal
12. Babita Devi D/O Late Dukhan Mandal
All 4 to 12 are resident of village-Parmanandpur, P.S. Korha, District Katihar.
13. Hriday Narayan Yadav S/O Late Kamaleshwari Prasad Yadav
14. Kusheswar Prasad Yadav S/O Late Kamaleshwari Prasad Yadav
Both R/O Village- Pothia, P.S.- Falka, District- Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praween Kumar Jaipuriar, Adv.
For the Respondent/s : Mr. Nivedita Nirvikar GP3

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 24-02-2023

Heard learned counsel for the parties.

The petitioner has filed the instant writ application
for the following relief(s):-

*“1.That this is an application Under Article 226 of the
Constitution of India for issuance of an appropriate*



Writ, Order or direction to quash the order dated 12.12.2011 (Annexure-1) passed by the Addl. Collector, Katihar in Bataidari Appeal Case No.689/1999-2000 passed under section 48-F of the Bihar Tenancy Act, affirming the orders of Deputy Collector Land Reform, Katihar dated 30.12.1998(Annexure-2) passed in Case No.227/1992-93 under section 48-E of the Bihar Tenancy Act, relating to the extent of a total area of 2.77 Acres of land pertaining to under Mauza - Parmanandpur, in R.S. Khatas Nos.128,129 & 4, over RS Plots Nos. 120,306,310,345 & 301 & 256,259, respectively under Korha P.S., District Katihar, whereby and where under the learned Addl. Collector, affirmed the Order of DCLR, Katihar (Respondent no.2) and accepted the claims of the Respondents 1st parties of being the under-raiyat (Bataidar) over the lands in question, which has been passed by the learned D.C.L.R., Katihar (Respondent no.2) on 30.12.1998 (Annexure-2), behind the back of the Petitioner, although Petitioner became landlord of the land in question since 18.9.1992, and Circle Officer, Korha mutated the land in question in the name of the Petitioner founding her in khas cultivable possession over the land in question and since then Petitioner is paying the revenue rent to the State of Bihar, having up-to-date rent-receipts in her name & possession, whereas the father of the Respondent No. 4 to 12 has filed the case u/s 48-E of the B.T. Act on 22.9.1992 without making the Petitioner Party in the present proceeding u/s 48-E of the B.T. Act (Annexure-3). The petitioner seeks any other further relief or relieves to which the petitioner is found fit and entitled.”



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 hereinafter 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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