

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21343 of 2021

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Shis Mohammad S/o Late Ainul Resident of Lahra Phulwari, Ward No.10,
Chakla, District- Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar through the Collector, Kishanganj.
2. The Sub-Divisional Magistrate (S.D.M./S.D.O.), Kishanganj.
3. The Circle Officer (C.O.), Kochadhaman, District- Kishanganj.
4. Fazlur Rahman S/o Late Jahoor Ali Resident of Village- Bagalbadi, P.S.-
Kochadhaman, District- Kishanganj.
5. Lukman Ali S/o Late Jahoor Ali Resident of Village- Bagalbadi, P.S.-
Kochadhaman, District- Kishanganj.
6. Noor Islam S/o Late Jahoor Ali Resident of Village- Bagalbadi, P.S.-
Kochadhaman, District- Kishanganj.
7. Md. Rafique S/o Late Jahoor Ali Resident of Village- Bagalbadi, P.S.-
Kochadhaman, District- Kishanganj.
8. Deepak Kumar Sharma S/o Late Ram Prasad Sharma Resident of Village-
Chakla, P.S. and District- Kishanganj.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Satish Kumar Sinha
For the Respondent/s : Md. Khurshid Alam (Aag12)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 28-11-2023 Heard learned counsel for the parties.

2. This writ application has been filed for quashing order dated 09.03.2021 passed by the Sub-Divisional Magistrate, Kishanganj (Respondent No. 2) in Appeal Case No. 10 of 2016 whereby Sub-Divisional Magistrate, the appellate authority under the Bihar Tenancy Act, 1885 has confirmed the order dated 16.05.2016 passed by the Circle Officer, Kochadhaman (Respondent No. 3) in Revenue Case No.



107/2013-14 under Section 48D of the Act.

3. Learned counsel for the State raises preliminary objection regarding maintainability of the case to the effect that an alternative remedy is available to the petitioner. He submits that during pendency of the writ petition, Bihar Land Tribunal has become functional and proviso to Section 15 of the Bihar Land Tribunal Act, 2009 which reads as:

“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”.

Section 15 of the Act of 2009 stipulates that 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.

4. Learned counsel for the petitioner does not dispute



the above proposition and requests for disposal of the writ application granting liberty to the petitioner to approach the Bihar Land Tribunal for proper adjudication of the matter.

5. In view of the aforesaid submission, let the petitioner file afresh application before the Bihar Land Tribunal for adjudication of the matter, within a period of six weeks from the date of receipt of this order.

6. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

7. Writ petition stands disposed of with the aforesaid directions.

(Prabhat Kumar Singh, J)

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