

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4726 OF 2017
(Arising out of S.L.P. (Civil)No.3821 of 2015)

State of Bihar and Ors. ...Appellants

VS.

Maheshwar Mandal and Ors. ...Respondents

WITH

CIVIL APPEAL NOS.4729-4739 OF 2017
(Arising out of S.L.P. (Civil)Nos.6603-6613 of 2015)

O R D E R

Civil Appeal arising out of SLP(Civil)No.3821/2015

Leave granted.

We have heard the learned counsel for the parties and perused the impugned judgment and order dated 24th June, 2014 passed by the High Court of Judicature at Patna. We find that in the writ petition filed by Maheshwar Mandal and Sanjay Mandal, respondents herein the relief claimed was regarding quashing of the order of Deputy Collector, Forbisganj Araria dated 27th December, 2011 passed by one of the respondents as also the appellate order of the Divisional Commissioner, Purnea dated 8th August, 2012 passed by the another respondent

and restraining the respondents to forbear from taking any step disturbing the petitioners' possession over the land in question. From perusal of the writ petition, which has been filed as Annexure P6 of the present appeal, we find that there is no challenge to the vires of any of the provisions of the Bihar Land Disputes Resolution Act, 2009 (hereinafter referred to as "the Act of 2009"). Merely because during the course of the hearing, arguments were advanced questioning the validity of any of the provisions of an enactment it is not open to a Court of law to decide its validity and declare it to be unconstitutional, without there being any pleadings to that effect. This fact is not disputed by the learned counsel appearing for the parties.

In this view of the matter, The appeal is allowed and the impugned order dated 24th June, 2014 passed by the High Court of Judicature at Patna cannot be sustained in the eyes of law and is hereby set aside and the matter is remanded back to the High Court for deciding afresh in accordance with law expeditiously.

It shall be open to the parties to take such plea which are available to them in accordance with law.

Civil Appeals arising out of SLP(Civil)Nos.6603-6613/2015

Leave granted.

We have heard the learned counsel for the parties.

From the perusal of the impugned order dated 7th July, 2014, we find that the High Court, while deciding the Letters Patent Appeals, relied upon the order dated 24th June, 2014 passed in Maheshwar Mandal & Anr. v. State of Bihar and Ors. Since we have already set aside that judgment, these appeals are also allowed and the impugned judgment is set aside. These matters are also remanded to the High Court. Having regard to the facts and circumstances of the case, the High Court is requested to decide the Letters Patent Appeals as expeditiously as possible in accordance with law.

It will be open for the parties to take such plea which are available to them in accordance with law.

The interim order passed by the Division Bench of the High Court shall continue to remain in operation, till these matters are finally decided.

Pending applications also stand disposed of.

.....J.
[R.K. AGRAWAL]

.....J.
[MOHAN M.SHANTANAGOUDAR]

New Delhi;
March 28, 2017.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3821/2015

(Arising out of impugned final judgment and order dated 24/06/2014 in CWJC No. 1091/2013 passed by the High Court of Judicature at Patna)

STATE OF BIHAR AND ORS.

Petitioner(s)

VERSUS

MAHESHWAR MANDAL AND ORS.

Respondent(s)

(With interim relief and office report)

WITH

SLP(C) No. 6603-6613/2015

(With appln. for completion of service of notice by publication and exemption from filing O.T. and impleadment as party respondent and permission to file additional documents and Interim Relief and Office Report)

Date : 28/03/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Abhinav Mukerji, Adv.

In SLP 3821/2015 Ms. Bihu Sharma, Adv.

Ms. Purnima Krishna, Adv.

Mr. Siddharth Garg, Adv.

In SLPs 6603-6613 Mr. Jayant Bhushan, Sr. Adv.

Mr. Chandra Bhushan Prasad, Adv.

For Respondent(s) Dr. Maurya Vijay Chandra, Adv.

Mr. Rahul Arya, Adv.

Mr. Prem Prakash, Adv.

Mr. Nitin Kumar Thakur, Adv.

Ms. K. V. Bharathi Upadhyaya, Adv.

Mr. Sanjay R. Hegde, Sr. Adv.

Mr. Abhay Kumar, Adv.

Mr. Saurabh Mishra, Adv.

Mr. Himanshu, Adv.

Mr. Bilal Khan, Adv.

Mr. Basava Prabhu Patil, Sr. Adv.
Mr. Ravikesh K. Sinha, Adv.
Mr. Harinder Kumar, Adv.
Mr. Abhijat P. Medh, Adv.

Mr. Gopal Singh, Adv.
Mr. Advitiya Awasthi, Adv.

Mr. Rajnish Sinha, Adv.
Mr. Rajat, Adv.
Mr. Vikas Mehta, Adv.

Mr. Ashutosh Kumar, Adv.
Mr. Manish Kumar Choudhary, Adv.
Ms. Namita Choudhary, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed
order.

Pending applications are also disposed of.

(Anita Malhotra)
Court Master

(Chander Bala)
Court Master

(Signed order is placed on the file.)