

(2007) 05 PAT CK 0042
In the Patna High Court
Case No : CWJC No. 1222 of 1998

Govind Pd. Makharia

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 31-05-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 3 PLJR 821

Hon'ble Judges : J.N. Bhatt, C.J.; S.K. Sinha, J

Bench : Division Bench

Advocate : Surendra Kr. Singh, Gopal Bohra, Sunil Sharma, Y.V. Giri, Jyoti Saran, Dinesh Pd. Verma, Raju Giri, R.K. Agrawal, D.P. Verma, Ashok Kr. Jain, A.S. Jha, Awanish Kumar, Umesh Kumar Mishra, Arun Kumar-2, Ramesh Kumar Agrawal, Sudhir Kumar, Pandit Jee Pandey, Sanjay Kumar Tiwary, Deepak Kumar, Madan Mohan Pd. Singh, Mithilesh Kr. Singh and M.P. Gupta, for the Appellant; S.K. Ghose, M.S. Mishra and Suresh Mishra, for the State, for the Respondent

Judgement

1. In this group of 655 writ petitions arising out of the disputes and grievances in view of the provisions of Section 23(4) of the Bihar Tenancy Act, 1885 (Act 8 of 1987) ("Tenancy Act"), which came to be incorporated by the Bihar Tenancy (Amendment) Act, 1993 (Bihar Act 21, 1993), as well as, resultant amended provisions known as the "Bihar Rent Re-fixation Rules, 1995" ("Rent Rules of 1995") thereunder. It has been submitted that out of 655 cases petitions under Article 226 of the Constitution of India listed today, 44 matters are for fixing the date of final hearing, whereas, 611 matters are for admission hearing, which we have heard, upon joint request, for final disposal.

2. Earlier, in some of the cases, the constitutional validity and the vires of the aforesaid provisions came to be raised in a group of 193 petitions under the Tenancy Act and Rules thereunder. Those matters have been disposed of after full-fledged hearing by this Court (in CWJC No. 5529 of 1995; Amar Singh and Others etc. etc. Vs. The State of Bihar and Others etc. etc. . In that group of the matters, the challenge made against the vires and constitutionality of the

aforesaid provisions has been upheld by a Division Bench of this Court (in which one of us, namely, Dr. J.N. Bhatt, C.J., was a party).

2. The impugned provisions in that group of matters have been held to be ultra vires of the constitutional provisions and the Tenancy Act, as well as, the relevant Rules thereunder. The benefit of that judgment has been directed for the pending cases only. In other words, thus, the relief by circumscribing it is to the pending cases, which have attained finality, shall not be re-opened on account of operation of the Division Bench judgment rendered in Amar Singh case (supra).

3. In this group of petitions, there are 655 matters, wherein, the proceedings came to be initiated by the respondent State under the Tenancy Act, as well as, the Bihar Rent Re-fixation Rules, 1995. The petitioners, being aggrieved by the orders recorded in the proceedings, have challenged in this group of 655 petitions under Article 226 of the Constitution of India the orders or judgments or decisions. So the grievances voiced and raised in this group of petitions shall have to be dealt with in accordance with law declared by this Court in Amar Singh case (supra), so far as the impugned provisions are concerned.

4. There is a consensus that in Amar Singh case (supra), the grievances are redressed by quashing the proceedings, at any stage, before finality in view of the ultimate conclusions reached by the Division Bench. Obviously, therefore, as a necessary corollary the legal fate of all the writ petitions in this group will have the same implication in the light of the aforesaid Division Bench judgment. The petitions, therefore, shall stand disposed of in accordance with law laid down by a Division Bench of this Court in Amar Singh case (supra). Rule is discharged. No cost.