

(2019) 02 PAT CK 0017

In the Patna High Court

Case No : Letters Patent Appeal No. 979 Of 2011 In Civil Writ Jurisdiction Case
No. 9869 Of 2010

Kusum Devi

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 14-02-2019

Acts Referred:

Bihar Tenants Holdings (Maintenance of Records) Act, 1973 — Section 2(c), 16

Citation : (2019) 02 PAT CK 0017

Hon'ble Judges : Amreshwar Pratap Sahi, CJ; Chakradhari Sharan Singh, J; Sudhir Singh, J

Bench : Full bench

Advocate : Subodh Prasad, Anjani Kumar, Shailendra Kumar Singh, Amit Kumar Jha

Judgement

Heard Shri Subodh Prasad, learned counsel for the appellant and Shri Anjani Kumar, learned Additional Advocate General-4, for the State of Bihar. The reference made by the Division Bench on 6th of December, 2012 raising the question of the jurisdiction vested with the Additional Collector to hear a revision petition under Section 16 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 has been placed before us to be answered in the light of a perceived conflict between two Division Bench judgements in the case of Kapildeo Singh & Ors. Vs. The State of Bihar & Ors. reported in 2003 (2) PLJR 431; and in the case of Amarendra Kumar Singh Vs. The State of Bihar & Ors. reported in 2011 (3) PLJR 422.

The provision conferring powers on the Additional Collector in terms of Section 2(c) of the Act has been perused by us and what we find is that the judgement in the case of Kapildeo Singh (supra) was delivered on the basis of the provisions that were existing then and, in our opinion, the same does not require any further interpretation as there is no conflict with the later judgement in the case of Amarendra Kumar Singh (supra), inasmuch as, after the Notification dated

28th of May, 2008, the position stood altered whereby the Additional Collector was empowered to exercise the power of the Collector as held in the case of Amarendra Kumar Singh (supra).

Thus, all such matters which arose prior to the Notification dated 28th of May, 2008 were to be governed by the law existing then as held in the case of Kapildeo Singh (supra), whereas after the Notification, the law declared in the case of Amarendra Kumar Singh (supra) held the field. Thus the provisions being different prior to the issuance of the Notification dated 28th of May, 2008, there is no conflict at all between the two Division Bench decisions so as to be resolved by us.

We may further observe that the Bihar Land Mutation Act, 2011 contains a repeal clause whereby the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 has been repealed. The reference stands answered accordingly. Let the matter be now placed before the appropriate Bench for being decided on merits.