

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11217 of 1995

In the matter of an application under Articles 226 and 227 of the Constitution of India

Bishun Roy, son of Dhandhar Roy, resident of village Lodipur, P.S.- Anchal Goraul, District Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. The Joint Director Consolidation, Muzaffarpur
3. The Deputy Director Consolidation, Vaishali at Hajipur
4. The Consolidation Officer, Goraul --- ---- Respondents 1st parties
5. Uma Kant Roy
6. Jwala Roy

Respondents no. 5 and 6 are sons of Late Fakira Roy, resident of village Lodipur, Anchal and Police Station Goraul, District Vaishali---Respondents 2nd parties

.... Respondents

Appearance :

For the Petitioner/s : M/S Harendra Prasad Singh, Santosh Kumar, Advocates

For the State : Mr. Syed Anshul Alam, SC 3 with Mr. Mahtab Alam, AC to SC 3

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 07-05-2015

Heard learned counsel for the petitioner and learned counsel for the State. No one appears for respondent Nos. 5 & 6.

2. The writ application has been filed for quashing the judgment and order dated 24.9.1995 passed by the Joint Director, Consolidation, Muzaffarpur in Consolidation Revision No. 234 of 1994 and the judgment and order dated 1.10.1994 passed by the Deputy Director, Consolidation, Vaishali on remand in Revision Case No. 766 of 1991.

3. The case had been proceeded stage by stage showing a very sorry state of affairs with respect to the officers manning the

different offices of the State.

4. In view of the nature of the order I propose to pass, it may not be necessary to give the facts in detail with regard to the merits of the case. Suffice it to say that the dispute is with regard to RS Plot No. 2792, area 8 decimals, in village Lodhipur, bearing Khata No. 217, P.S. No. 21 within Goraul circle. In the course of consolidation proceedings the Consolidation Officer by his order dated 7.7.1984 allowed the Objection Case No. 556 of 1976 under Section 10(2) of the Consolidation Act which had been filed by the petitioner against one Fakira Roy, father of respondent Nos. 5 and 6, on the basis of local enquiry held by Amin on 24.3.1984. Aggrieved by the aforesaid order the private respondents filed Consolidation Appeal No. 650 of 1985-86 in which again a local enquiry was directed to be made, which was done by Bhu-mapak on 23.3.1986 and by his order dated 29.3.1986 the Deputy Director, Consolidation dismissed the appeal.

5. The private respondents thereafter filed Consolidation Revision No. 766 of 1991 which was allowed by the Joint Director, Consolidation by his order dated 11.6.1993 holding that the local inspection had not been made in accordance with the provisions of Section 10(7) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 as the requirement under the same is that the Consolidation Officer ought to make a local inspection himself. The matter was accordingly remanded to the Consolidation Officer,

Goraul with the direction to make a local inspection in presence of both the parties and the members of the village Advisory Committee and after examining the evidence to dispose of the matter.

6. The Consolidation Officer, Goraul instead of complying with the order of the revisional authority sent the original records of the case to the Deputy Director, Consolidation, Vaishali to dispose of the Revision Case at his level and surprisingly the Deputy Director, Consolidation without exercising any legal sense and common sense in the matter proceeded to dispose of the matter by his order dated 1.10.1994. Since the revision was decided against the petitioner he filed curiously another Revision Case No. 234 of 1994 which has been disposed of by the impugned order dated 24.9.1995 by the Joint Director, Consolidation.

7. In my view, once the matter had been remanded by the order dated 11.6.1993 in Revision Case No. 766 of 1991 with a specific direction to the Consolidation Officer, Goraul to dispose of the matter after complying with the provisions of Section 10(7) of the Consolidation Act, it was not open to the Consolidation Officer, Goraul to have sent the same to be decided as a revision application by the Deputy Director, Consolidation or by the Joint Director, Consolidation, which is contrary to the direction in the Revision Case No. 766 of 1991 issued on 11.6.1993. The earlier direction was to pass order by the Consolidation Officer after making a local inspection himself.

8. Thus, the order dated 1.10.1994 passed by the Deputy Director of Consolidation is without jurisdiction. Curiously enough the said order dated 1.10.1994 having been passed in exercise of revisional jurisdiction there could not be a second exercise of revisional jurisdiction by the Joint Director of Consolidation. Thus, the order dated 24.9.1995 passed by the Joint Director, Consolidation, Muzaffarpur is also contrary to law.

9. Both the impugned orders are, accordingly, set aside and the matter is remanded to the Consolidation Officer to proceed afresh in the matter in accordance with the order dated 11.6.1993 passed by the Joint Director, Consolidation, Muzaffarpur in Revision Case No. 766 of 1991.

10. The writ application is, accordingly, allowed with the aforesaid direction.

(Ramesh Kumar Datta, J)

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