

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9807 of 1995

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1. Medi Gorhi, son of Late Gulai Mandal.
2. Jiwachh Lal Mandal, son of Late Gulai Mandal.
3. Dasrath Mandal, son of Late Musaharu Mandal.
All residents of Village Baigna Tola Kamasthan, Police Station- Krityanand
Nagar, District- Purnia.

.... Petitioners

Versus

1. The State of Bihar
2. The Research Officer, Consolidation Directorate, Bihar, Patna.
3. The Deputy Director of Consolidation, Purnia.
4. The Consolidation Officer at Krityanand Nagar, Police Station- Krityanand
Nagar, District- Purnia.
5. Chichai Manda, son of Late Ghotai Mandal.
6. Parmeshwar Mandal, son of Ghotai Mandal.
Respondent nos. 5 and 6 are residents of Village Baigna, Police Station-
Krityanand Nagar, District- Purnia

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate
Mr. Ravindra Kumar Chaudhary, Advocate
Mr. Binay Kumar Sinha, Advocate
For the Respondent/s : Mr. (Mrityunjay Kumar, AC to GP 10

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 09-04-2015

The petitioners' claim is that the name of their forefathers were recorded as Original Sikmidar in case of CS plot no. 1283 measuring 2.59 acres in village Baigna, P.S. Kityanand Nagar, District Purnea. One Kishori Gorhi, who was Nakdi Sikmidar of the land sold his interest to Radha Prasad Bhagat. During revisional survey operation, land in question was recorded in the name of Sita Ram Bhagat and others, as Kaimidars.

The case of the petitioners is that persons with similar name

fraudulently got their names recorded as Sikmidar of land in question in the revision survey records. The petitioners filed objection before the Assistant Consolidation Officer, Krityanand Nagar, which was allowed.

Learned counsel for the petitioners submits that father of petitioner nos. 1 and 2, namely, Gulai Gorhi, filed Title Suit No. 314 of 1976 against private respondent nos. 5 and 6 for declaration of his right as Nakdi Sikmidar and the Survey entry with Nakdi Sikmidar. The suit was decreed in favour of father of petitioner nos. 1 and 2. The private respondents filed Misc. Case No. 74 of 1984, which abated in view of Section 4 (1) (c) of the Bihar Consolidation of Holding and Prevention of Fragmentation Act. During the consolidation proceeding respondent nos. 5 filed objection petition, which was registered as case no. 8 of 1985-86 before the Assistant Consolidation Officer. The Assistant Consolidation Officer vide its order dated 25.06.1987 directed that all the revisional survey plots except plot no. 1795 be recorded in the name of the petitioners. The private respondent nos. 5 and 6 prayed for review, which was, however, allowed. The petitioners preferred appeal, which was dismissed on 25.08.1989. Thereafter they filed revision, which was transferred to the file of respondent no.2, Search Officer, Consolidation Directorate. Respondent no.5 appeared in the said

revision case and filed a compromise petition admitting the title and possession of the petitioners on the land. However, respondent no.2 dismissed the appeal.

The petitioners submit that the order of Research Officer is without jurisdiction in view of case of Danu Mahto Vs. The State of Bihar & others, reported in 1998 (1) PLJR 352.

I find that the Consolidation Officer could not have reviewed the order of Assistant Consolidation Officer.

In the result, this application is allowed. The order passed by the Consolidation authorities in challenge, are set aside. However, it will be open for the respondents to file an appeal against the order dated 25.06.1987, passed in case no. 8 of 1985-86.

Let a copy of this order be communicated to respondent no.2 (Research Officer of the Consolidation Directorate, Bihar, Patna) and respondent no.4 (Consolidation Officer, Krityanand Nagar).

(Samarendra Pratap Singh, J.)

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