

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.139 of 1994

Kamlesh Kumar Pandey, son of Shri Kashi Nath Pandey, resident of Village Basani, P.S. Bhagwanpur, District Bhabhua (formerly Rohtas)

.... Petitioner/s

Versus

1. The State of Bihar
2. Joint Director, Consolidation (Headquarter), Bihar, Patna
3. Consolidation Officer, Bhagwanpur, district Bhabhua
4. (i) Sonmati Devi, daughter of Kalp Nath Pandey
(ii) Ramayan Pandey, son of Kalp Nath Pandey
(iii) Shambhu Nath Pandey, son of Kalp Nath Pandey
(iv) Saheb Pandey, son of Kalp Nath Pandey
5. Hiramati Devi, daughter of Raja Ram Pandey
6. Sarswati Devi, wife of Kashi Nath Pandey, all residents of Village Basani, P.S. Bhagwanpur, District Bhabhua

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. None.
For the State : Mrs. Nivedita Nirvikar, GA-X
For Respondents 4, 5: Mr. B.P. Pandey, Sr. Advocate
Mr. Jagannath Singh, Advocate
Mr. P.K. Sinha, Advocate
Mr. Nirbhay Prashant, Advocate
Mr. S.C. Giri, Advocate

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 16-04-2015

None appears for the petitioner. With the assistance of State counsel Mrs. Nivedita Nirvikar, GA-X and the counsel for respondent nos. 4, 5 this writ petition is being disposed of.

2. Petitioner, who is the son of respondent no. 6 and grandson of Raja Ram Pandey, respondent no. 5(dead) has assailed the order dated 10.05.1988, passed by the Consolidation Officer, Bhagwanpur under sub-section (4) of Section 10 of the

Consolidation Act as also order dated 12.10.1993, passed by the Deputy Director of Consolidation (Headquarter), Bihar, Patna in Revision Case No. 1374/91 whereunder aforesaid order dated 10.05.1988 has been upheld setting aside the order dated 03.09.1991 passed by the Assistant Director, Consolidation, Rohtas in Appeal Case No. 350/1988-89.

3. It appears, earlier Raja Ram Pandey, respondent no. 5 (dead) had executed registered gift deed dated 06.05.1972 for 67 decimals of land in favour of his daughter respondent no. 6 and his grand son, the petitioner herein. The total area of plot no. 136 being 71 decimals, he retained 4 decimals in the said plot. Later under registered sale deed dated 08.02.1978 respondent nos. 5, 6 transferred the aforesaid 4+7 decimals in plot no. 136 in favour of Kalp Nath Pandey, respondent no. 4(dead). Kalp Nath Pandey, respondent no.4 (dead) in the light of the sale deed dated 08.02.1978 came in possession over the lands and after initiation of consolidation proceeding requested the Consolidation Officer to create jamabandi of the said plot in his name. Aforesaid order is dated 10.05.1988, Annexure-1.

4. It is submitted on behalf of respondent no. 4 that Raja Ram Pandey, respondent no. 5(dead) and respondent no. 6 were competent to transfer 4+7 decimals of land of plot no. 136



in his favour as on the date of the said transfer respondent no. 6 did own, possess more than 7 decimals of land in the said plot but she along with her father, who had only 4 decimals left in plot no. 136 transferred only 11 decimals and he also came in possession over the said 11 decimals of land which the authorities below have found to be prima facie not visited by any fraud. Raja Ram Pandey, respondent no. 5(dead) on the date of execution of the sale deed dated 08.02.1978 did possess 4 decimals of land in plot no. 136 as earlier he had gifted 67 decimals of his land in favour of his daughter respondent no. 6 and his grand son, the petitioner herein. Respondent no. 6 was also competent to transfer 7 decimals out of her share which she got from her father vide registered deed of gift dated 06.05.1972. Accordingly, I do not find any error in the orders impugned dated, 10.05.1988, 12.10.1993, Annexures-1, 3 but the findings recorded therein shall be subject to the findings recorded by any competent civil court.

5. With the observation aforesaid, the writ petition is disposed of.

(V.N. Sinha, J.)

Rajesh/-

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