

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1298 of 1993

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1. Alakhdeo Nonia
 2. Basuieo Nonia
 3. Dharamdeo Nonia
 4. Bilash Nonia All sons of Late Ramiani Nonia, Resindents of village Doman
Bigha P.S. Deo, Distt. Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Joint Director of Consolidation, Gaya
3. The Deputy Director of Consolidation, Gaya
4. The Consolidation Officer, Deo, Aurangabad
5. Dasrath Bhuiyan Son of Tear Bhuiyan, Resident of Arrahnagar Tola Facca P.O.
Banua, P.S. Deo Distt Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. NAND KISHORE PRASAD SINHA

For the Respondent/State : Mr. PRAVEEN KUMAR, AC TO GP-27

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 03-04-2015

1. This is an application seeking quashing of the order dated 29.7.1979 passed by the Consolidation Officer, Deo under the District of Aurangbad, whereby, he has allowed an objection under Section 10(4) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the Act) and has directed the name of respondent no.5 to be recorded against the concerned Khata appertaining to the land in question i.e. Khesra No. 406 Area



1.96 decimals. From the said order dated 29.7.1979, it appears that the said respondent no.5, in his objection under Section 10(4) of the Act had claimed that the land in question was settled in his favour against which name of petitioner no.1 has been wrongly entered as being in illegal possession over the land.

2. The petitioners had preferred an appeal before the Deputy Director, Consolidation, Gaya-cum Aurangabad vide Case No. 33 of 1982 under Section 10(6) of the Act which has been rejected by an order dated 2.5.1983 on the ground that consolidation operation in the area was complete and no order could accordingly be passed. The petitioners' revision application under Section 35 of the Act has also been rejected by the Joint Director, Consolidation, Gaya vide his order dated 4.12.1992 passed in Revision Case No. 484 of 1990.

3. The petitioners have challenged all these three orders. Referring to the order of the Consolidation Officer, it is the contention of the petitioners that the petitioners were not even impleaded as party in the case before the Consolidation Officer and the Consolidation Officer passed the order without

giving the petitioners any opportunity of being heard. It has, accordingly, been contended that all subsequent orders confirming the order of the Consolidation Officer are illegal, arbitrary having been passed in violation of principle of natural justice.

4. I have perused the orders of the Consolidation Officer dated 29.7.1979.

5. I find substance in submission made on behalf of the petitioners that the petitioners were not even impleaded as party in the said Consolidation objection Case No. 59 of 2009/1979 (Annexure-3) though he question entry of the petitioner's as Raiyat of the said land. The order of the Consolidation Officer cannot be sustained on the ground and is, accordingly, quashed.

6. Since I have quashed the very initial order of the Consolidation Officer dated 29.07.1979 which has been passed without the petitioners' being impleaded a party to the said proceeding and thus without giving an opportunity of being heard. The order of appellate authority as well as the revisional authority also cannot be sustained and are accordingly

quashed.

7. Learned counsel appearing on behalf of the petitioners appears to be right in his submission that the revisional authority i.e. Joint Director, Consolidation, dismissed the petitioners' revision in most casual manner without discussing the documents and the evidence brought on record by the petitioners before him.

8. This is to be noted that while admitting the writ application by an order dated 20.5.1993, notice was directed to be issued to respondent no.5 pursuant to which respondent no.5, though entered appearance by way of Vakalatnama, no counter affidavit has, however, been filed on his behalf. The averments made in the writ application has thus remained uncontroverted.

9. This application is accordingly, allowed. There shall no order as to costs.

(Chakradhari Sharan Singh, J)

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