

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1941 of 1996

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1. Ramakant Mishra , son of late Rajendra Mishra
 2. Most Mankeshara Kuer, wife of Late Rajendra Mishra
 3. Sanjay Mishra, minor son of Late Rajendra Mishra, under the guardianship of Most. Mankeshara Kuer, the mother guardian and next friend, All resident of village- Chanari, Post Office and Police Station- Chenari, District-Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Land Reforms, Government of Bihar,
2. Joint Director, Consolidation (Head Quarter), Bihar, Patna
3. Deputy Director, Consolidation, Rohtas at Sasaram
4. Consolidation Officer, Chenari, District-Rohtas
5. Gurusharan Ram
- 5A. Dhani Ram, both sons of late Narayan Ram
6. Chabi Ram, son of late Narayan Ram
7. Ram Nath Ram, son of Late Gopi Ram
8. Pahanti Ram, son of late Nathuni Ram
9. Gauri Shankar Ram, son of Ram Nath Ram
10. Ghur Phekan Ram
11. Seran Ram, both sons of late Gokul Ram
12. Dwarika Ram, son of Late Jawahir Ram, respondent Nos. 5 to 2 are resident of village Ugahni, P.O. Ugahani, P.S. Chenari, Distt. Rohtas (Sasaram)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Banwari Sharma
Mr. Mangal lok Preabha

For the Resp. 5 to 12: Mr. Jitendra Pd. Singh &
Mr. Abhishek

For the State : Mr. Mahtab Alam, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 21-05-2015

Heard learned counsel for the petitioners and learned
counsels for the private respondents as also for the State.

The petitioners seek quashing of the order dated
13.12.1993 passed in Revision Case No. 50/1992 by the Joint



Director, Consolidation (HQ), Bihar, Patna and the order dated 9.12.1991 passed by the Deputy Director of Consolidation, Rohtas, Sasaram in Appeal No. 746/1986-87 by which the appellate authority had allowed the appeal and set aside the order dated 14.8.1986 passed by the Consolidation Officer, Chenari in Case No. 31/1985-86.

The case before the Consolidation Officer was filed by the private respondents against the ancestors of the petitioners with regard to wrong entry of the names of the petitioners' ancestor in the Revisional Survey Khatian with regard to two plots of Mauza – Ugahni Thana No. 542, Khata No. 204, Plot Nos. 88 and 89, area 3 acres 22 decimals. The Consolidation Officer held that the respondents had failed to establish their claims whereas the petitioners, who were the opposite parties before him, had succeeded in establishing their case and accordingly directed their names to be entered into the records . Aggrieved by the same the respondents had filed appeal before the Deputy Director of Consolidation which was allowed. Against the same the Revision Case No. 50/1992 was filed by the petitioners which has been dismissed leading to the filing of the present writ application.

The stand of the petitioners before the Consolidation Authorities was that the disputed land in question was recorded in the



name of Bihari Chamar, Gopi Chamar and Kail Chamar, all sons of Lochan Chamar, in the cadastral survey. The property on being attached and auction sold by the then landlord on account of non-payment of rent, Gopi Chamar purchased the entire disputed land exclusively and the entire disputed land came in his possession. Gopi Chamar is alleged to have sold the disputed land by registered sale deed dated 7.2.1923 to one Ram Sewak Mishra, who is alleged to be full brother of one Dorha Mishra whose descendents the petitioners are. It is stated that said Ram Sewak Mishra became Bairagi and therefore changed his name to Ram Sewak Das and upon such purchase the name of Ram Sewak Das was entered into the Sarista of the Zamindari and the rent was being regularly paid and receipts granted in his name. It is also the claim of the petitioners that the said Ram Sewak Das mortgaged the disputed land to Ramgati Mishra and Ram Sakal Mishra, brothers of the ancestor of the petitioners, by registered mortgage deed dated 14.5.1930 for a period of 9 years and also delivered possession.

In the revisional survey the disputed land was recorded in the name of Ram Sewak Das and in the remark column in possession as mortgagee names of Ram Sakal Mishra and Ram Gati Mishra was recorded. Upon death of Ram Sakal Mishra and Ram Gati Mishra, who died issueless, their interest devolved upon



the legal heirs of his brother Raj Kumar Mishra, namely, the present petitioners and their predecessors and the interest of Ram Sewak Das who had died issueless also devolved upon the said legal heirs. It is also the claim of the petitioner that during revisional survey one of the sons of Gokul Chamar, namely, Jawahar Ram filed objection under Section 103 of the Bihar Tenancy Act which was rejected after hearing the parties by order dated 19.12.1965 and the said order acquired finality as neither appeal nor revision had been filed against the same.

A large number of documents were produced by both the sides before the Consolidation authorities. On a consideration of the said documents and their effect, although the Consolidation Officer decided in favour of the petitioners, but both the Deputy Director in appeal and the Joint Director in the revision have given findings of fact against the petitioners. It is not in dispute that the parties were duly heard by the Appellate and the Revisional Authorities and upon hearing the parties the conclusions have been arrived by the Deputy Director and the Joint Director in which they have doubted the genealogy brought forth by the petitioners. It has also been held by the Revisional Authority that no right would accrue from the deed of mortgage of 1930 because after the enactment of Bihar Debt Redemption Act all the mortgages which were more than

12 years old were deemed redeemed and thus the very basis of claim of the petitioners falls flat.

The Appellate and the Revisional Courts have also disbelieved the fact that Ram Sewak Das and the ancestors of the petitioners, namely, Dorha Mishra were full brothers. They have also considered the fact that the said Gokul Ram not being the Karta of the family could not have the right to transfer the entire lands of the joint family.

Learned counsel for the petitioners has sought to assail the aforesaid findings of fact of the revisional and the appellate authorities. He however, accepts that it is not for the Writ Court to disturb the findings of fact as the revisional authority would be the last forum so far as the questions of fact are concerned.

Learned counsel for the private respondents, on the other hand, has sought to support the orders of the appellate and the revisional authorities stating that they have rightly disbelieved the genealogy and the claim of the petitioners in the capacity of a member of joint family who is not Karta and who had made sale of the entire lands and thus, the orders of the appellate and the revisional authorities are not assailable.

On a consideration of the submissions of learned counsels for the parties and the facts and circumstances of the case,

this Court finds force in the submission of learned counsel for the respondents. The matter appears to have been concluded before the appellate authority and the revisional authority on the basis of the facts on the records. Thus, it would be difficult for this Court in its writ jurisdiction to interfere with the said findings of fact which findings, learned counsel for the petitioners was unable to show as being perverse.

The writ application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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