

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8461 of 1998**

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Ram Dayal Ram @Ram Dayal Chamar S/o Late Naku Ram, resident of village-Sripur, P.S. Jagadishpur, District-Bhojpur

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Joint Director, Consolidation of Bihar at Patna
3. Deputy Director, Consolidation, Bhojpur at Arrah
4. Consolidation Officer, Jagadishpur, Bhojpur
5. Sonapati Devi, W/o Late Kamla Singh, resident of village-Ayar, P.S. Jagadishpur, District-Bhojpur

.... .... Respondent/s

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**Appearance:**

For the Petitioner/s : Mr. Arun Kumar Pandey, Advocate  
Mr. Om Prakash Upadhyay, Advocate  
For the Respondent/s : Mr. Rajiv Kumar Singh, (GP-2)  
Mr. Rabindra Kumar Ravi, Advocate

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 07-05-2015**

Heard Mr. Arun Kumar Pandey, learned counsel for the petitioner and Mr. Rajiv Kumar Singh, learned G.P.-2 for the State.

Though the respondent no. 5 has appeared through counsel Mr. Ravindra Kumar Ravi but there is no representation on her behalf when the matter is taken up for consideration today for final disposal at the stage of hearing.

The petitioner is aggrieved by the ex parte order passed by the Joint Director, Consolidation (Headquarter), Bihar, Patna passed in Revision Case No. 1060 of 1990 placed at Annexure-1 whereby the revision application has been allowed and the Chak Khatian has been ordered to be corrected in favour of the private respondent.



Facts of the briefly stated is that according to the petitioner the land in dispute bearing R.S. Khata No. 1318, R.S. Plot No. 3215 admeasuring 43 decimals corresponding to C.S. Khata Plot No. 2692 of C.S. Khata No. 904 situated in village-Ayar, P.S. Jagdishpur in the District of Bhojpur was recorded in the C.S. Khatian in the name of the grand father of the petitioner, namely, Ram Dayal Chamar. He submits that at the stage of the revisional survey, the name of the petitioner stands entered in the R.S. Khatian.

It is the case of the petitioner that the private respondent disputing such position at the first instance filed a suit under Section 106 of the Bihar Tenancy Act (hereinafter referred to as 'the Act') for correction of revenue records and which was dismissed on 22.9.1973.

The private respondent not being satisfied moved under the provisions of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as 'the Act') before the Consolidation Officer, Jagdishpur giving rise to Case No. 1163 of 1987-88 seeking deletion of the name of the petitioner from the survey record and for inclusion of her name which prayer was allowed. The writ petitioner being aggrieved by the order of the Consolidation Officer, Jagdishpur in Case No. 1163 of 1987-88 filed a statutory appeal giving rise to Case No. 55 of 1988-89 and the



Deputy Director, Consolidation, Bhojpur (Arrah) taking note of the survey entries as present in the cadastral survey khatiyan as well as revisional survey khatiyan which reflected the name of the grand father of the petitioner and the petitioner himself respectively, allowed the appeal while expressing doubts over the stand taken by the private respondent that the matter had ended in a compromise in between the parties in the suit filed under 'the act'. According to the petitioner though the private respondent was relying upon some kind of compromise stated to have been entered into between the parties but it was a false statement and which statement was disbelieved by the appellate authority who rejected the compromise itself expressing suspicion thereon. It is the case of the petitioner that the private respondent thereafter filed a revision under Section 35 of the Act giving rise to Revision Case No. 1060 of 1990 and the Joint Director, Consolidation (Headquarter) Bihar, Patna vide the impugned order passed on 23.3.1998 placed at Annexure-2 allowed the revision, being aggrieved the petitioner is before this Court.

Mr. Pandey, learned counsel appearing on behalf of the petitioner submits that the entire argument of the private respondent rests upon a compromise stated to have been entered into in between the parties as well as order of the statutory authorities passed in the



suit filed by the private respondent under Section-106 of the Bihar Tenancy Act and although the appellate authority had by a detailed discussion rejected the stand of the private respondent, the revisional authority has mechanically accepted the stand of the private respondent to allow the revision application.

Mr. Pandey, referring to a certified copy of the order passed by the statutory authority under Section 107 of the Bihar Tenancy Act, a copy of which is placed at Annexure-3, submits that whereas the suit of the private respondent was dismissed on 22.9.1973, this fact was suppressed by the private respondent before the revisional authority who has plainly believed the contention of the private respondent about the suit ending in a compromise.

I have heard learned counsel for the parties and as I have observed the private respondent having registered appearance through counsel, there is no representation on her behalf.

This writ petition was admitted vide order passed on 17.1.2000 and has been taken up for consideration today.

The sole argument advanced by Mr. Pandey to question the revisional order passed by the Joint Director is that it is founded on an incorrect submission and without verification of the facts available on ground. The order of the appellate authority is placed at Annexure-1



and is a descriptive order. The appellate authority has examined the documents including the cadastral survey khatiyan as well as revisional survey khatiyan and when he has held that there is nothing in the possession of the private respondent to question these entries rather she has admitted to this position while relying upon a compromise entered between the parties which according to the appellate authority was unreliable and suspicious. Neither the order of the appellate authority nor the order of the revisional authority reflects that the order passed by the statutory authority under the Bihar Tenancy Act was ever brought to their notice. Whereas the appellate authority has relied upon the documentary evidence produced by the petitioner to uphold the survey entries but the revisional authority mechanically proceeding on the compromise story of the private respondent and without meeting the reasons assigned by the appellate authority to uphold the contention of the petitioner, has allowed the revision. That the revision is founded on a false statement is manifest from the certified copy of the order issued by the revenue department placed at Annexure-3 which shows that the suit of the private respondent had dismissed on 22.9.1973.

In view of the eloquent position reflecting from Annexure-3, it is hereby held that the order of the revisional authority is

unsustainable for it is based on no evidence nor is supported with any document and has been mechanically passed.

For the reasons aforementioned, the order dated 23.3.1998 passed by the Joint Director, Consolidation (Headquarter), Bihar, Patna in Revision Case No. 1060 of 1990 cannot be upheld and is accordingly set aside. The writ petition is allowed.

**(Jyoti Saran, J)**

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