

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4357 of 1995

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Brajnandan Thakur, son of Late Ramanand Thakur, resident of village
Lokhra, P.S. – Palasi, District – Purnea.

.... Petitioner

Versus

1. The State of Bihar
 2. The Joint Director, Consolidation (H.Q.), Bihar, Patna.
 3. The Deputy Director, Consolidation, Kishanganj.
 4. The Consolidation Officer, Palasi, District – Araria.
 5. Deva Nand Jha, son of Late Nakatu Jha
 6. Madhukant Jha, son of Late Shyam Sundar Jha
 7. Bechan Mandal, son of Tinu Mandal
 8. Satan Mandal, son of Mithu Mandal
 9. Sidhu alias Kasam Lal Mandal son of Bongal Mandal.
 10. Chaturanand Jha, son of Kunj Bihari Jha
 11. Dayanand Jha, son of Kunj Bihari Jha
 12. Nityanand Jha, son of Kunj Bihari Jha
 13. Nand Mohan Jha, son of Hargovind Jha
 14. Mayanand Jha, son of Krishna Mohan Jha
 15. Mathuranand Jha, son of Ram Jha
- All resident of village Likhra, P.S. – Palasi, District – Purnea.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 07-05-2015

By this writ petition, petitioner challenges the
order of Deputy Director, Consolidation by which upon

objection of respondent nos. 5 and 6 the name of petitioner was deleted from the Khatiyan.

2. Heard Shri Sabbir Ahmad, learned counsel for the writ petitioner, Shri A.K. Mallik appearing on behalf of contesting private respondents and learned counsel for the State.

3. Learned counsel for the petitioner submitted that undisputedly petitioner was a purchaser of land by registered sale deed from noted Khatiyani Raiyat Uparjanwati Devi, accordingly, he had come before the Consolidation Authority for mutating his name. Private respondent nos. 5 & 6 claimed that a Title Suit had been filed by their vendors in respect of the said land and they having purchased from the plaintiff, their name should be mutated. The Consolidation Authorities took the view in favour of the private contesting respondents.

4. In my considered opinion, their views do not stand in law. Petitioner purchased land from a registered Khatiyani Raiyat, Consolidation Authorities could not have gone into the question of the reckless or otherwise of the Khatiyan so long as it stood, as such, the authorities are absolutely wrong in holding that once a Title Suit has been

filed the plaintiff gets the right to the property. The law is otherwise. So long as the plaintiff's title is not decided in the Title Suit, he is merely claimant whose right is yet to be established.

5. Thus, on the pretence of a Suit being pending, the plaintiff does not become rightful owner for recording their names in the survey records for the purpose of consolidation. Therefore, both the orders i.e. order dated 26.11.1988 passed by Deputy Director, Consolidation, Kishanganj, and the order dated 18.10.1994 passed by Joint Director, Consolidation, Bihar, Patna, affirming the same have to be set aside.

6. Accordingly, this writ petition is allowed.

(Navaniti Prasad Singh, J.)

Rajeev/-

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