

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3138 of 1993

Parwati Devi @ Pashpati Devi, Wife of Nageshwar Choudhary, resident of Village-
Jalalpur Gangti, P.S. and Anchal-Mahua, P.O. and District-Vaishali.

Opposite Party in the court below

.... **Petitioner**

Versus

1. The State of Bihar.
2. Director of Consolidation, Bihar, Patna.
3. Deputy Director of Consolidation, Vaishali.
4. Joint Director Consolidation, Muzaffarpur, Vaishali.
5. Consolidation Officer, Vaishali.
6. Rajendra Ram.
7. Mahendra Ram.
8. Jogendra Ram.

Sons of Sarjug Chamar @ Sarjug Ram deceased.

9. Mohakhia.
10. Sahokhia.
11. Shanti,

Daughters of Late Sarjug Chamar @ Sarjug Ram deceased.

12. Name not known, widow of Sarjug Ram.

All resident of Village-Jalalpur Gangti, P.S. and Anchal-Mahua, District-Vaishali.

Petitioner appellants in the courts below

.... **Opposite Parties**

Appearance :

For the Petitioner/s : Mr. Naresh Kumar Sinha, Advocate

For the Opposite Party (State) : Mr. Praveen Kumar, Advocate (AC to G.P.27)

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

ORAL JUDGMENT

Date: 24-04-2015



This is an application seeking quashing of an order passed by the Joint Director, Consolidation, Muzaffarpur in Revision Case No. 2099 of 1989, whereby, he has set aside the orders passed by the Deputy Director, Consolidation, Vaishali and the Deputy Collector, Land Reforms, Vaishali.

2. From the facts asserted in the writ application, it appears that the petitioner had filed an objection before the Consolidation Officer, Vaishali under Section 10 (2) of the The Bihar Consolidation of Holdings & Prevention of Fragmentation Act, 1956 (**hereinafter referred to as the 'Act'**), asserting that wrong entry had been made with respect to Plot No. 1405, inasmuch as, the area of the land was wrongly recorded as 44 decimals in place of 30 decimals. The Consolidation Officer by an order dated 17.11.1981, sustained the objection and directed for necessary correction on the basis of the report submitted by the In-charge Amin, an Assistant Consolidation Officer. The contesting private respondents preferred an appeal before the Deputy Director, Consolidation, Vaishali vide Appeal No. 295 of 1989 under Section 10 (6) of the Act. The Deputy Director, Consolidation, Vaishali rejected the appeal vide his order



dated 22.04.1989, as according to him, the Consolidation Officer had passed the order after spot verification as regards, actual possession of the parties over the disputed land. The revision application was filed under Section 35 of the Act before the Joint Director, Consolidation, Muzaffarpur, being Revision Case No. 2099 of 1989. The Revisional Authority allowed the said revision application vide order dated 17.02.1993.

3. Learned counsel appearing on behalf of the petitioner, assailing the order of the Revisional Authority, i.e., Joint Director, Consolidation, has submitted that the Revisional Authority disturbed the concurrent findings of fact, arrived at by the two courts, i.e., the court of Consolidation Officer and the court of Deputy Director, Consolidation, without properly appreciating the evidence available on the record. He has submitted that the Revisional Authority wrongly entered into deciding the title over the disputed land and committed an error while reaching to a conclusion that the respondents proved their title and possession over the land, whereas, the petitioner could not produce any evidence.



4. I have perused the order of the Revisional Authority. I find that the Revisional Authority took into account the fact that the respondents were claiming title and possession over the disputed land being heirs of the Khatiyani Raiyat, in support of which, they produced evidence before the Revisional Court. On the other hand, the claim of the petitioner of title over the land was based on settlement done in favour of one Raudi Mahra by Ex-Jamindar as the Khatiyani Raiyat had failed to pay the rent. It was the case of the petitioner before the authorities below that the said Raudi Mahra had transferred the disputed land in favour of one Khaderan Ram in the year 1951 and said Khaderan Ram had sold the land in favour of one Asharfi Bhagat in the year 1964 and in the year 1968, the petitioner is said to have purchased the said land.

5. From the order of the Joint Director, Consolidation, Muzaffarpur, which under challenge in the present writ application, I find that he refused to accept such plea, as noted above, taken on behalf of the petitioner, who was respondent before him, as he had failed to produce any document in support of such plea. There is no pleading in

the writ application that the petitioner had adduced evidence in support of his plea, which the Revisional Authority failed to consider while passing the impugned order. No document has been annexed, even in the present writ application, in support of the petitioner's plea that Raudi Mahra was the Khatiyani Raiyat of the said land. This is not the plea of the petitioner that she had adduced evidence before the Revisional Authority, the then Joint Director, Consolidation that said Raudi Mahra was Khatiyani Raiyat. In such circumstance, if the Revisional Authority accepted the plea of the respondents that Raudi Mahra was not the Khatiyani Raiyat and, therefore, he did not have any right to transfer the said land, I do not found any illegality in such order.

6. The findings of fact arrived at by the Joint Director, Consolidation, Muzaffarpur in Revision Case No. 2099 of 1989, do not suffer from any infirmity.

7. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

U			
---	--	--	--