

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5101 of 1993

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1. Baij Nath Singh.
 2. Deo Narayan Singh
- Both Sons of late Deyali Singh.
3. Satya Narayan Singh.
 4. Ram Prasad Singh.
 5. Birchandra Singh
- All Sons of Haricharan Singh.
6. Singheshwar Singh.
 7. Nagendra Singh.
 8. Ram Sagar Singh.
- All Sons of Ramashraya Singh.
9. Ram Shreshtha Singh.
 10. Sita Ram Singh.
 11. Siya Ram Singh.
- All Sons of Kamal Singh.
- All residents of Village-Bishunpur Bande, P.S.-Bhagwanpur, District-Vaishali.

.... Petitioner/s

Versus

1. Joint Director of Consolidation, Muzaffarpur.
 2. Deputy Director of Consolidation of Vaishali at Hajipur.
 3. Consolidation Officer, Goraul Anchal, District-Vaishali at Hajipur.
 4. Lilku Singh, Son of Late Hira Singh.
 5. Baskit Singh, Son of Late Hira Singh.
- Both residents of Village-Bishunpur Bande, P.S.-Bhagwanpur, District-Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate

For the Respondent/s (State) :Mr. Rakesh Kumar Sharma, Advocate (AC to GP-27)

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

ORAL JUDGMENT

Date: 28-04-2015

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the respondents-State of Bihar and its officials. Despite service of notice and the fact that respondent nos. 4 and 5 have entered into appearance and filed Vakalatnamas, there is no representation on their behalf.

2. The petitioners seek quashing of the order dated 17.12.1992 passed by the Joint Director, Consolidation, Muzaffarpur in Revision Case No. 97 of 1991 (Annexure-4) as well as the order dated 21.12.1990 passed by the Deputy Director, Consolidation, Vaishali at Hajipur.

3. The dispute relates to Revisional Survey Plot Nos. 562, 563, 564, 565, 544, 620, 624, 625 and 627, as described in the order under challenge passed by learned Joint Director, Consolidation, Muzaffarpur. One Hira Singh and Chhedi Singh were sons of Rachhya Singh. Respondent nos. 4 and 5 are sons of Hira Singh, whereas, the petitioners are the descendants of Chhedi Singh. There is a dispute that certain land was purchased in the name of Hira Singh in the year 1917. It is the claim of the petitioners, who are the descendants of Chhedi



Singh that the said property was purchased in the name of Hira Singh from the joint family fund. On the other hand, it is the claim of the contesting private respondents in their counter affidavit that there was a partition in the family in the year 1910 itself, whereafter, Hira Singh and Chhedi Singh had become separate and came in possession over the respective properties allotted to them which came in their share. It is their case that subsequent to partition, Hira Singh and Chhedi Singh and their heirs dealt with their properties separately and acquired properties in their names from their separate resources and funds.

4. The property in dispute was entered in the name of descendants of Chhedi Singh in the revisional survey, which was questioned by the sons of Hira Singh before the Assistant Consolidation Officer, who, however, rejected the plea of respondent nos. 4 and 5. They, thereafter, approached the Deputy Director, Consolidation, Vaishali at Hajipur and held that there was a partition between Hira Singh and Chhedi Singh in the year 1910 and the property, in question, which was purchased in the name of Hira Singh, should have been entered in their names. Accordingly, after quashing the order of the Consolidation Officer, Goraul, Deputy Director, Consolidation

has directed for making necessary correction in the records. The petitioners, thereafter, preferred revision before the Joint Director, Consolidation, who rejected their revision petition by the impugned order dated 17.12.1992.

5. The sole ground on the basis of which learned counsel for the petitioners intends to challenge the order of the Revisional Authority is that certain documents and facts, which were crucial for determination as to whether the property, in question, was purchased individually by Hira Singh or from the joint family fund, were not considered by the Revisional Authority, though those facts and records were available before him. A reference has been made to the fact that the petitioners had mortgaged part of the property, in dispute, in favour of one Punpun Singh on 21.05.1928, which was subsequently redeemed. He contends that this was a strong circumstance and fact which at least required consideration by the Revisional Authority, which he failed to do. In the counter affidavit filed on behalf of the respondents, the fact that the petitioners had taken this plea before the Revisional Authority has not being denied. I find substance in the submission made on behalf of the petitioners that the Revisional Authority ought to have considered this aspect while considering the case of the

petitioners. Learned counsel for the petitioners has referred to the order of the Deputy Director, Consolidation and has submitted that even he has not discussed this aspect while rejecting the petitioners' appeal and on the basis of irrelevant materials, he came to a finding that the properties, in dispute, were exclusively purchased by the ancestors of respondent nos. 4 and 5.

6. In view of the submission as above, I allow this writ application and quash the order dated 17.12.1992 passed in Revision Case No. 97 of 1991 by the Joint Director, Consolidation, Muzaffarpur. The matter is remitted back to the Director, Consolidation, Bihar for passing an order afresh, considering all the materials available on the record of Revisional Case No. 97 of 1991 including the mortgage deed said to have been executed by the ancestors of the petitioners in the year 1928 itself, as referred to above.

7. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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