

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9806 of 1994

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1. Md. Alauddin son of Sk. Latiful
 2. Md. Taha son of Sk. Latiful, residents of village Pathrabari, P.S. Jokihat, District Araria

.... Petitioners

Versus

1. The State of Bihar
2. Deputy Director, Consolidation (Head Quarter) Patna
3. Deputy Director Consolidation, Kishanganj
4. Consolidation Officer, Jokihat, District Araria
5. Sk. Aulad son of Sk. Ismail (deceased)
6. Sk. Ilyas son of Sk. Aulad
7. Sk. Abbas son of Sk. Aulad
8. Sk. Ghayas son of Sk. Aulad
9. Sk. Idris son of Sk. Aulad. All residents of village Pathrabari, P.S. – Jokihat, District Araria

.... Respondents

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Appearance :

For the Petitioners : Mr. Shabbir Ahmad, Advocate
For the Respondent No. 8 : Mr. N. Hoda, Advocate
For the State : Mr. Rajesh Kumar, AC to G.P.-10

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 02-07-2015

Heard learned counsel for the petitioners and the counsel for Respondent no.8. None appears for Respondent nos. 6, 7 and 9 though a counter affidavit has been filed on their behalf.

2. Petitioners are aggrieved by the order dated 13.06.1994 passed by the Deputy Director, Consolidation (Headquarters), Bihar, Patna in Revision Case No. 3567 of 1989, Annexure-4 whereunder the Deputy Director (Headquarters) has set aside the order dated 05.09.1989 passed

by the Deputy Director, Consolidation, Kishanganj in Misc. (Appeal) Case No. 167 of 1989-90, Annexure-3 on the ground that the Deputy Director of Consolidation, Kishanganj had no jurisdiction to initiate Misc. (Appeal) Case No. 167 of 1989-90.

3. Learned counsel for the petitioners submits that Deputy Director, Consolidation (Headquarters) had no jurisdiction to set aside the order passed another Deputy Director, Consolidation, as both the authorities are of the same rank and status and Deputy Director, Consolidation (Headquarters) could not have sat in appeal over the order passed by the Deputy Director, Kishanganj.

4. The submission raised by the counsel for the petitioners has substance and in appreciation of such fact the order dated 13.09.1994, Annexure-4 is set aside and the matter is remitted back to the Director, Consolidation, Bihar, Patna to reconsider the Revision Case No. 3567 of 1989 in accordance with law by examining whether for transfer of the lands in question any permission was required under the Act as according to the petitioners no such permission was necessary as the land register was not published till the date of execution of the sale deed. During hearing of the revision application, parties shall be at liberty to raise other

points as well.

5. The writ petition is, accordingly, allowed.

(V.N. Sinha, J.)

Arjun/-

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