

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 4797 of 1995

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1 Jawahar Singh, son of Ganga Dayal Singh
2 Heera Lal Singh, son of Ganga Dayal Singh
3 Subhash Chandra Singh
4 Man Singh, minor sons of Jawahar Singh under the guardianship of his father
Jawahar Singh, residents of Village – Mithala, PS – Jagdish Pur, District -
Bhojpur

.... Petitioner/s

Versus

1 The State of Bihar
2 The Principal, Consolidation Training Institute, Patna (Empowered u/s 35 of the
Consolidation Act)
3 Dy Director, Consolidation, Bhojpur at Arrah
4 The Consolidation Officer, Jagdishpur, District – Bhojpur
5 Jaishankar Singh, son of Jagatdhari Singh
6 (a) Most Madhuri Devi
(b) Kanchan Kumari, residents of Village – Barnaur, PS – Jagdishpur, District -
Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Md Waliur Rahman, Nishant Kr Sinha, Advs

For Respondent No 5 : Mr Mrigendra Kumar, Advocate

For the S t a t e : Mr Kamlesh Kumar Sharma, AC to SC 22

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 14-05-2015

Heard learned counsel for the petitioners and the
learned counsel for the contesting respondents, who are heirs of
respondent No 6.

2 Learned counsel for the petitioners states that having
obtained permission on 20.12.1988, as envisaged under Section 6 of
the Bihar Consolidation of Holdings and Prevention of Fragmentation



Act, 1956 (for brevity, the Act), the petitioners purchased three plots of land by three registered sale deeds. When these purchases were made, the consolidation proceedings had concluded though technically there was no notification in terms of Section 26 of the Act denotifying proceedings. The private respondents, claiming to be having interest in the land, filed appeals against the orders of the Consolidation Officer on technical plea that due notices were not issued to all the parties and without realizing the fact that by registered sale deed, transfers had already taken place, the Deputy Director, Consolidation set aside the order of the Consolidation Officer virtually setting aside registered sale deeds. This order was not interfered in revision and hence, this writ application challenging the three orders.

3 Learned counsel for the contesting respondents submits that they had a claim on the said land and consolidation proceedings not being over, grant of permission to sell would further fragment the land. In my view, that is not the scope of the Act. The requirement to seek permission before effecting transfers is in aid of consolidation proceedings. In consolidation proceedings, fragmented lands are to be consolidated. If, while the proceedings are still going on, people start transferring lands, then no plan can ever be made or implemented. It is with that purpose, restrictions have been imposed

but once the chaks have been carved out and people are given their possession, all plans having been implemented, there can be no reason to restrict the right of transferring merely because State has chosen not to denotify in the meantime. The Consolidation Officer, thus, not acted without jurisdiction in permitting the transfers.

4 The private respondents claim to have some right in the property. If that be so, it was for them to then move Civil Court and establish their rights or challenge the validity of the sale deed but in this process of Section 6 of the Act, they could not prevent a person from selling or a person from purchasing property.

5 Thus, the order of the revisional authority affirming the order of the appellate authority reversing the order of the Consolidation Officer is set aside. Liberty is granted to the contesting respondents to challenge the transaction, if they are so advised before competent Civil Court.

6 With this observation and direction, this writ petition stands disposed of.

(Navaniti Prasad Singh, J)

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