

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13279 of 1993

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1. Shivmuni Koiri S/o Deva Sharan Koiri
 2. Keshor Koiri, son of Shiva Muni Koiri
 3. Bahadur Singh Koiri, son of Shiva Muni Koiri
 4. Bachan Bihari Koiri, son of Shiva Muni Koiri. All resident of village Purshottampur, P.S. Itarhi, Now District Buxar

.... Petitioners

Versus

1. Deputy Director of Consolidation (Head Quarter), Bihar, Patna
2. Deputy Director Consolidation, Bhojpur, Arrah
3. Consolidation Officer, Itarhi, Now District - Buxar

.... Respondents 1st Set

4. Ramprit Ahir S/o Ram Deni Ahir
5. Smt. Chanda Devi wife of Raj Muni Ahir
6. Lal Muni Ahir, son of Ramprit Ahir
7. Bhagelu Ahir, , son of Ramprit Ahir
8. Usha Shankar Ahir, son of Ramprit Ahir
9. Kalika Prasad Ahir S/o Late Ram Prasad Ahir. All resident of village –Onwas P.S. – Itarhi, Now District Buxar

... ... Respondent 2nd set

10. Shashi Bhushan Prasad Singh S/o Late Kameshwar Prasad Singh
11. Akhauri Nagendra Prasad
12. Akhauri Phanindra Bhushan Prasad. Both sons of Late Akhauri Brij Gopal Prasad. All resident of village – Churamanpur, P.S. – Buxar, Now District Buxar

... ... Respondent 3rd set

with

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Civil Writ Jurisdiction Case No. 13308 of 1993

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Rajeshwar Koeri alias Rajeshwar Singh son of Late Gopi Koeri, resident of Village – Purshottampur, Police Station – Itarhi, Now District - Buxar

.... Petitioner

Versus

1. Deputy Director of Consolidation (Head Quarter), Bihar, Patna
2. Deputy Director Consolidation, Bhojpur, Arrah
3. Consolidation Officer, Itarhi, Now District - Buxar

.... Respondents 1st Set

4. Ramprit Ahir S/o Ram Deni Ahir
5. Smt. Chanda Devi wife of Raj Muni Ahir
6. Lal Muni Ahir, son of Ramprit Ahir
7. Bhagelu Ahir, , son of Ramprit Ahir
8. Usha Shankar Ahir, son of Ramprit Ahir
9. Kalika Prasad Ahir S/o Late Ram Prasad Ahir. All resident of village –Onwas P.S. – Itarhi, Now District Buxar

... ... Respondent 2nd set

10. Shashi Bhushan Prasad Singh S/o Late Kameshwar Prasad Singh
11. Akhauri Nagendra Prasad
12. Akhauri Phanindra Bhushan Prasad. Both sons of Late Akhauri Brij Gopal Prasad. All resident of village – Churamanpur, P.S. – Buxar, Now District

Buxar

... .. Respondent 3rd set

13. Rajeshwari Devi D/o Late Gopi Koeri and wife of Deomuni Koeri, resident of village Dharampur, P.O. Rapat Ganj, District – Mirzapur (U.P.)

14. Tetari Devi D/o Late Gopi Koeri and wife of Jhauani Koeri, resident of village – Chhotakadih, P.O. Nachap, District Bhojpur

... .. Respondent 4th set

Appearance :

(In CWJC No. 13279 of 1993)

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

For the Respondent nos. 1 to 3 : Mrs. Nivedita Nirvikar, G.A.-10

Mr. Manoj Kumar, AC to GA-10

(In CWJC No. 13308 of 1993)

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

For the Respondent nos. 1 to 3 : Mrs. Nivedita Nirvikar, G.A.-10

Mr. Manoj Kumar, AC to GA-10

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 16-04-2015

Heard learned counsel for the petitioners and the State in both the writ petitions.

2. Petitioners are aggrieved by the order dated 30.06.1993, Annexure-8 passed by the Deputy Director, Consolidation (Headquarter), Bihar, Patna whereunder he has allowed both the revision applications setting aside the order dated 22.08.1986 passed by the Deputy Director, Consolidation, Bhojpur in Appeal Case nos. 19, 20 both of 1981-82.

3. It is submitted on behalf of the petitioners that Deputy Director, Consolidation (Headquarter) could not have sat in appeal over the order dated 22.08.1986 passed by the Deputy Director, Consolidation, Bhojpur in Appeal Case No. 19, 20 both of 1981-82 as both the officers are of the same rank and status. The only difference between the Deputy Director, Consolidation, Bhojpur and the Deputy



Director, Consolidation (Headquarter) is that one is exercising jurisdiction in the Bhojpur district and the other is exercising jurisdiction at the Headquarter but the rank and status of the two Deputy Directors, Consolidation being the same, Deputy Director, Consolidation (Headquarter) had absolutely no jurisdiction to sit in appeal over the order passed by the Deputy Director, Consolidation, Bhojpur.

4. Counsel for the State accepts the aforesaid contention of the petitioners as both the officers may be sitting in the Headquarter or in Bhojpur district are of same rank and status. Learned counsel for the State, however, further submits that the impugned order passed by the Deputy Director, Consolidation (Headquarter) may be set aside by this Court but the finding recorded by the authorities below i.e. Consolidation Officer and Deputy Director, Consolidation, Bhojpur may be subject to the findings recorded by the competent Civil Court. In this connection, learned counsel for the State further points out that the subject matter of the consolidation proceeding herein is also subject matter of Title Suit Nos. 213. 155 both of 1963 of the Court of Additional Munsif, Buxar and both the suits were dismissed. The order dismissing the suits was challenged in appeal vide Title Appeal Nos. 178, 176 both of 1970 before the District Judge, Bhojpur. While the two appeals remained pending, the consolidation proceedings were initiated in the area and after initiation of consolidation

proceedings both the appeals abated under order dated 27.09.1978 passed by 2nd Additional Sub-Judge, Buxar.

5. During the pendency of the writ petition, consolidation proceedings have come to close as the area has been denotified under Section 26A of the Consolidation Act. After the area has been denotified the two appeals which abated under order dated 27.09.1978 should revive, if not already revived and proceed in accordance with law.

6. Accordingly, order dated 30.06.1993, Annexure-8 passed by the Deputy Director, Consolidation (Headquarter), Bihar, Patna is set aside. The findings recorded by the Consolidation Officer and the Deputy Director, Consolidation, Bhojpur under order dated 22.8.1986 shall be subject to the result of the aforesaid title appeal.

7. The writ petition is, accordingly, allowed.

(V.N. Sinha, J.)

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