

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1268 of 2013**

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1. Chandradeo Lohar @ Chandradeo Sharma  
2. Fulesar Lohar @ Fulesar Sharma  
3. Baidyanath Lohar @ Baidyanath Sharma  
4. Girdhari Lohar @ Girdhari Sharma  
All four Sons Of Late Lagan Lohar Of Village - Pakri, Tole Kharhi, P.S.  
Kateya, Dist. Gopalganj

.... .... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar,  
Patna.  
2. The Joint Director of Consolidation, Muzaffarpur  
3. The Assistant Director of Consolidation, Siwan  
4. The Consolidation Officer, Kateya District - Gopalganj  
5. Raja Ram Lohar, S/O Late Awadh Lohar  
6. Dinanath Lohar, S/O Late Shravan Lohar  
Both resident Of Village Pukri Tole Kharahi, P.S. Kateya, District -  
Goaplganj

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rameshwar Pandey, Advocate  
For the Respondent nos.1to4 : Mr. Ratna Deep Prasad, AC to AAG-XI  
For the Respondent no.5 : Mr. Ambika Bhagat, Advocate  
For the Respondent no.6 : Mr. Raj Narayan Mishra, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**  
**ORAL ORDER**

4      30-10-2015                      Heard the parties.

The petitioners are aggrieved by the order dated 10.06.1993 (Annexure-3) passed in Consolidation Revision Case No.196 of 1992, whereby the aforesaid revision application filed on behalf of the respondent nos.5 and 6 under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 has been allowed by the respondent Joint Director of Consolidation, Muzaffarpur.

Learned counsel appearing on behalf of the petitioners submits that the petitioners as also the respondent nos.5 and 6 are family members and are descendants of their common



ancestor. According to him, the aforesaid revision application was filed by the respondent nos.5 and 6 against the order dated 18.04.1991 passed by the Assistant Director of Consolidation, Siwan in Appeal Case No.59 of 1990, but, at no point of time, notice was issued to the petitioners by the revisional authority and the matter was decided ex parte. It is contended by him that the petitioners came to know, for the first time, in the year 2012 about the impugned order, whereafter the present writ petition has been filed.

The matter has been contested by the learned State counsel as also learned counsel appearing on behalf of the respondent nos.5 and 6. According to them, the notices were issued to the petitioners, but they did not appear to contest the matter; therefore, revision application was finally disposed of on merits. However, in the counter affidavit filed on behalf of the respondent no.3 as also respondent no.5, it is nowhere stated that the notices were validly served upon the petitioners.

After having heard the parties and taking into consideration the factual matrixes of the present case, this Court is of the opinion that the matter requires re-consideration and fresh decisions by the revisional authority. Apparently, the impugned order is ex parte one. The respondent Joint Director of Consolidation has also recorded in his impugned order that the opposite parties never appeared and, therefore, the matter was decided ex parte. Apparently, reasonable opportunity of hearing has not been given to the petitioners while passing the impugned revisional order, though the petitioners and the respondent nos.5 and 6 are descendants of their common ancestor.

In above view of the matter, the impugned order

dated 10.06.1993 (Annexure-3) passed in Consolidation Revision Case No.196 of 1992 by the respondent Joint Director of Consolidation, Muzaffarpur is hereby set aside and quashed and the matter is remitted back to the revisional authority for deciding the matter afresh on merits after giving an opportunity of hearing to both sides.

It is a common case of the parties that the court of respondent Joint Director of Consolidation is not functional; therefore, this matter is remitted back to the Director of Consolidation, Bihar, Patna who shall hear the matter and decide the claims of the parties afresh with respect to the lands in question on the basis of the materials/evidence produced by them.

In order to expedite the matter, the petitioners as also the respondent nos.5 and 6 are hereby directed to appear before the Director of Consolidation, Bihar, Patna with a certified copy of the present order within a period of one month from today, whereafter the Director of Consolidation, Bihar, Patna shall fix a firm date for hearing and deciding the aforesaid Consolidation Revision Case afresh on merits by a reasoned and speaking order.

The writ petition stands allowed to the extent indicated above.

**(Birendra Prasad Verma, J)**

Arvind/-

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