

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12610 of 1996

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Bhagwat Singh, Son of Late Janki Singh, resident of Village-Piprahi, P.S.-Amas,
District-Gaya. **Petitioner.**

Versus

1. The Joint Director of Consolidation, Gaya.
2. Consolidation Officer, Amas.
3. Lakxuman Prasad Singh, Son of Dewan Prasad Singh, resident of village-
Piprahi, P.S.-Guruwa, District-Gaya.
4. Shivbarat Singh, Son of Janki Singh, Resident of Village-Piprahi, P.S.-Amas,
District-Gaya **Respondents.**

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Pd Sinha, Adv.
Mr. M.Nasrul Huda Khan, S.C.-18.

For the Respondent/s : Mrs. Babita Kumari, A.C. to S.C.-18

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-05-2015

V.Nath, J.

Heard Mr. Nand Kishore Prasad Sinha, the learned
counsel for the petitioner and the learned counsel for the State
respondent. No body has appeared on behalf of the respondent nos.3
and 4 when the matter has been called out for hearing. It also
transpires that none had appeared on 16.04.2015 on behalf of the
private respondents.

Calling in question the jurisdiction of the Research
Officer, who has passed the impugned order exercising the power
under Section 35 of the Bihar Consolidation of Holdings and
Prevention of Fragmentation Act, 1956 (hereinafter referred to as Act

, 1956), the petitioner has preferred this writ application.

The learned counsel for the petitioner at the outset has questioned the jurisdiction of the authority in passing the impugned order and has made a limited submission that the impugned order passed by the 'Sodh Padadhikari' (Research Officer) is entirely without jurisdiction as the said authority could have no power under Section 35 of the Act, 1956. The reliance has been placed in support of this proposition on the decision of this Court in the case of ***Danu Mahto Vs. The State of Bihar, 1998 (1) PLJR 352.***

From the perusal of the aforesaid decision in the case of ***Danu Mahto*** (Supra), it is manifest that an identical question came up for consideration wherein after considering the various provisions of the Act 1956, this Court has held as follows:

“...It has not been disputed that Research Officer (respondent no.3) is an officer of the rank of Deputy Collector. No doubt, as noticed above, Section 34(2) of the Act enables the Director of Consolidation to delegate any of his powers or functions under the Act with the sanction of the State Government to any officer not below the rank of 'Deputy Collector'. But keeping in mind that officers exercising powers

under Section 35 of the Act are authorized to hear revision applications against the orders of the Deputy Director who as per sub-section (4a) of Section 2 of the Act cannot be an officer below the rank of Additional Collector. Therefore it would be preposterous to confer revisional power upon an officer of lower rank...”

No other authority or provision in law has been placed before this Court on behalf of the respondents-State to contradict the stand taken on behalf of the petitioner with regard to the absence of jurisdiction under Section 35 of the Act, 1956 with ‘Sodh Padadhikari’ (Research Officer). As such this Court comes to the conclusion that the impugned order dated 12.09.1995 passed by ‘Sodh Padadhikari’ in Revision Case No.35/1990 has been passed by the authority who has no jurisdiction under Section 35 of the Act, 1956. Accordingly, the impugned order is quashed and the matter is remitted back to the Director, Consolidation Bihar, Patna to hear and disposal in accordance with law.

(V. Nath, J)

Nitesh/-

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