

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4740 of 2012

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Radheshyam Prasad S/O Late Parmeshwar Prasad, Resident of Village and P.O- Raniganj, Police Station- Imamganj, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Joint Director of Consolidation Magadh Division, Gaya.
3. Chakbandi Officer, Imamganj, District- Gaya.
4. Sheo Kumar Das S/O Late Nanhaku Sao, Resident of Village and P.O- Raniganj, Police Station- Imamganj, District- Gaya, At Present Resident of Shankarpura Police Station- Pratappur, District- Chatra (Jharkhand)
5. Raj Kumar Sao S/O Late Nanhaku Sao, Resident Of Village and P.O- Raniganj, Police Station- Imamganj, District- Gaya, At Present Resident Of Shankarpura Police Station- Pratappur, District- Chatra (Jharkhand)
6. Shankar Sao S/O Late Nanhaku Sao Resident of Village and P.O- Raniganj, Police Station- Imamganj, District- Gaya, At Present Resident of Shankarpura Police Station- Pratappur, District- Chatra (Jharkhand)
7. Rajesh Sao S/O Late Nanhaku Sao Resident of Village and P.O- Raniganj, Police Station- Imamganj, District- Gaya, At Present Resident of Shankarpura Police Station- Pratappur, District- Chatra (Jharkhand)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh
Mr. Ramashish

For the Respondent No.1 to 3 : Mr. Ranjan Kumar, AC to AAG-IV

For the Respondent No. 4 to 7: Mr. Surya Narayan Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 21-09-2015 Heard the parties.

The petitioner is aggrieved by the order dated 12.05.2010 passed in Consolidation Revision Case No. 68 of 2009 by the respondent Joint Director of Consolidation, Magadh Division, Gaya, as contained in Annexure-2, whereby the aforesaid consolidation revision case filed on behalf of the respondents no. 4 to 7 under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short 'Act, 1956') has been allowed ex parte and claims raised on behalf of the respondents no. 4 to 7 with respect to the lands in question have been accepted.



Learned counsel appearing on behalf of the petitioner submits that, apart from the merit, the impugned order is not sustainable in law on the ground that before passing the impugned order, reasonable opportunity of hearing was not given to the petitioner. By referring to the averments made in paragraph-13 of the writ petition, it is further submitted that notices were never served upon the petitioner and the proceeding was decided ex parte.

Learned counsel appearing on behalf of the respondents no. 4 to 7 has contested the matter. By referring to the averments made in the counter-affidavit filed on behalf of the respondents no. 4 to 7, it is submitted that notice was issued to the writ petitioner and only after receipt of the service report, the matter was decided by the revisional authority. However, he has not been able to demonstrate before the Court that notices were actually served upon the petitioner and in spite of knowledge and information, he had chosen not to appear before the revisional authority.

Be that as it may, from the plain reading of the impugned order dated 12.05.2010 (Annexure-2), this Court finds that the matter was decided ex parte and the petitioner was not represented before the revisional authority.

This Court is of the considered opinion that before deciding any lis either by a court of law or by a statutory authority, reasonable opportunity of hearing must be given to all the parties, but that does not appear to have been done in the present case.

For the reasons recorded above, the impugned order dated 12.05.2010 (Annexure-2) passed in Consolidation Revision Case No. 68 of 2009 by the respondent Joint Director of Consolidation, Magadh Division, Gaya, is hereby set aside and

quashed, and the matter is remitted back to the respondent no.2 with a direction to decide the aforesaid revision case filed on behalf of the respondents no. 4 to 7 afresh on merits, after giving an opportunity of hearing to all concerned.

In order to expedite the matter, the petitioner as also the respondents no. 4 to 7 are hereby directed to appear before the respondent no.2 with a certified copy of the present order within a period of one month from today, whereafter respondent no.2 shall fix a firm date for hearing the aforesaid revision case afresh and thereafter the matter shall be decided strictly in accordance with law.

It is clarified that if in spite of the present order the petitioner does not appear before the respondent no.2 or does not contest the matter and if final order is passed by the respondent no.2, then in that case, he shall not be entitled to challenge such order on the ground violation of the principles of natural justice.

The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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