

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.11226 of 2009**

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Baldeo Mahto, son of Deo Chandra Mahto, resident of village- Mahdaiya, Police Station-Minapur, District- Muzaffarpur

.... .... Petitioner

Versus

1. The State of Bihar through the Joint Director of Consolidation, Muzaffarpur
2. Ashok Kumar Thakur
3. Pramod Kumar Thakur
4. Vinod Kumar Thakur,

All sons of Sri Bijali Thakur, residents of village- Mahadaiya, Police Station-Minapur, District- Muzaffarpur

5. The Assistant Consolidation Officer, Minapur, Muzaffarpur

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. KAMESHWAR KUMAR

Mr. Sanjay Kumar

For the Respondent/s : Mr. AC to SC-24

Mr. Ramesh Kumar Choudhary

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**

**ORAL JUDGMENT**

**Date: 11-05-2015**

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Heard learned counsel for the petitioner, learned AC to SC-24 as well as Sri Ramesh Kumar Choudhary, learned counsel for private Respondents.

The petitioner, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, has prayed for quashing of an order dated 08.04.2009 passed by the Joint Director of Consolidation, Muzaffarpur in Revision Case no. 39 of 2008 (Annexure-3 to the writ petition). By the said order, the learned revisional court has set aside an order, which was passed long back on 30.09.1980 by the Assistant Consolidation Officer, Minapur in

Chakbandi Case No.1538 of 1980.

Learned counsel for the petitioner has raised a limited question as to whether the Joint Director of Consolidation was having any jurisdiction under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956( hereinafter referred to as the Consolidation Act, 1956”) to review or recall its own order. Secondly, it has been argued that once an order was passed by the Assistant Consolidation officer in the year 1980, whether after about 28 years, the learned Joint Director of Consolidation was having any authority to interfere in the matter and allow the revision case.

Sri Ramesh Kumar Chaudhary, learned counsel for the private Respondents has vehemently opposed the prayer of the petitioner. He submits that the private Respondent had purchased the said land through a registered sale deed and without any information and notice to Respondent no.4, the petitioner got his name recorded by way of filing objection before the Assistant Consolidation Officer. Immediately after noticing such illegality, the Respondent no.4 approached the revisional court under Section 35 of the Consolidation Act, 1956. He submits that power under Section 35 of the Act is very wide and the learned Joint Director after noticing apparent illegality has passed a detailed and reasoned order, which has been assailed in the present writ petition. He further submits that it is true that prior to



filing of revision vide Revision Case no.39 of 2008, Respondents had filed a Revision case no.73 of 2007, which stood dismissed , but fact remains that said revision was not dismissed on merit , rather it stood dismissed due to the reason that certain relevant evidences as well as certified copy of the order was not on record. Accordingly, he submits that order impugned is not required to be interfere with.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Without going into merit of the case, the Court is of the opinion that after such a long time i.e. after expiry of 28 years, the learned Joint Director was not required to entertain such revision petition. Moreover, once revision preferred by Respondents was already rejected on 03.01.2008 vide Annexure-2 to the writ petition i.e. Revisional Case no.73 of 2007, the learned Joint Director of Consolidation was not having jurisdiction to entertain second revision petition and its earlier order. The said power is not vested in the Joint Director of Consolidation under Section 35 of the Consolidation Act, 1956.

The Court is of the opinion that the order impugned is totally unsustainable in the eye of law and is liable to be set aside. Accordingly, the orders impugned is set aside. The writ petition stands allowed.

It goes without saying that this writ petition has not

decided on merit, but only on technicality, the order of the Joint  
Director has been interfered with.

**(Rakesh Kumar, J)**

NKS /-

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