

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14064 of 2007

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1. Baleshwar Bhagat , son of late Basu Bhagat
2. Raj Nandan Bhagat
3. Prem Kumar Bhagat
sons of Baleshwar Bhagat
all are resident of village Dahich, P.S. Patepur District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director of Consolidation, Bihar Patna
3. The Deputy Director of Consolidation, Vaishali
4. Ram Bahadur Giri son of late Khijan Giri resident of village Dabhich P.S.
pate Nagar District Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SUBHASH CHANDRA YADAV
Mr. Ashok Kumar
For the Respondent/s : AC to AAG No. 6
Mr. Jai Prakash Verma

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 05-02-2015

Heard learned counsel for the petitioners, learned AC to
AAG No. 6 as well as Sri Jay Prakash Verma, learned counsel, who
has appeared on behalf of respondent no. 4.

The petitioners, invoking inherent jurisdiction of this court
under Article 226 of the Constitution of India, have prayed for
quashing of an order dated 20/3/2007 passed by the Director,
Consolidation in Revision Case No. 146(A) of 2001. By the said
order the learned Director, Consolidation has set aside the order
passed by the Deputy Director, Consolidation passed in
Miscellaneous Case No. 477 of 1995 which was decided in favour of

the petitioners.

Learned counsel for the petitioners has argued that the order of the Director, Consolidation is completely non speaking. He submits that under Section 35 of the Consolidation Act the Director, Consolidation was having jurisdiction to adjudicate on the issue. Even though he was having such jurisdiction, in a perfunctory manner, without assigning any reason has set aside the order of the Deputy Director, which was passed in favour of the petitioners only on technicality.

Sri Jay Prakash Verma, learned counsel for respondent no. 4 has opposed the prayer of the petitioners. He submits that since the Deputy Director, Consolidation was not having any jurisdiction to adjudicate on the petition filed by the petitioners, the order passed by the Deputy Director was *non est*, and as such, a declaration has been made by the Director, Consolidation and same has been set aside.

On perusal of the impugned order i.e. order dated 20/3/2007 passed in Revision Case No. 146(A) of 2001, it is evident that nothing has been indicated as to what was the dispute decided by the Deputy Director, Consolidation, nor any succinct reason has been assigned save and except the fact that the Director, Consolidation has considered the order of the Deputy Director as without jurisdiction. Even for the time being if it is assumed that the

order passed by the Deputy Director was without jurisdiction, fact remains that once dispute was brought to the notice of the Director, Consolidation and Director, Consolidation was having jurisdiction to adjudicate on the issue under Section 35 of the Act, the Director, Consolidation, was required to set the dispute at rest at least by assigning some reason.

Accordingly, the order impugned i.e. order dated 20/3/2007 passed in Revision Case No.146(A) of 2001 is hereby set aside and the matter is remitted back to the Director, Consolidation to pass a fresh order after hearing both the parties. Since both the parties have already appeared, they are required to make appearance before the Director, Consolidation for early disposal of the case.

The writ petition with above observation and direction stands disposed of.

(Rakesh Kumar, J)

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