

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11080 of 2000

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1. Sheo Narayan Bind @ Sheo Pujan Bind, Son of Late Ram Dutt Bind.
2. Prabhu Bind, Son of Late Ram Dutt Bind.
3. Sukhram Bind, Son of Late Ram Dutt Bind
4. Smt. Dasmati Devi, daughter of late Jhimal Bind,
All residents of Village- Sariawa, P.S.- Durgawati, District- Kaimu (Bhabhua).
.... Petitioners

Versus

1. The State of Bihar
2. The Director Consolidation, Bihar, Patna, Budha Marg, Patna.
3. The Assistant Director Consolidation, Rohtas at Sasaram.
4. The Consolidation Officer, Durgawati, Kaimur (Bhabhua).
5. Ram Dayal Bind, son of late Ramhari Bind
6. Ram Daras Bind, son of late Ramhari Bind
7. Anaras Bind, son of late Ramhari Bind,
All residents of Village- Sariawa, P.S.- Durgawati, District- Kaimu (Bhabhua).
.... Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal, Advocate
For the Respondent/s : Ms. Divya Verma, AC to AAG-3.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 09-07-2015

The petitioners pray for quashing the order dated 07.07.2000 passed by the Director, Consolidation, Bihar, Patna in Revision Case No. 1271 of 1991 whereby he has set aside the order dated 13.09.1989 passed by the Assistant Director, Consolidation, Rohtas.

2. The case of the petitioners' is that the land of Revisional Khata no. 12, plot no.450, area 56 decimals of Village Sariawa, P.S. Durgawati, District- Kaimur was recorded in the name of father of petitioner nos. 1 to 3 and mother of the petitioner no.4 in equal shares. However, in Revisional Survey khatian, name of the grandfather was



recorded as “Awaidh Dakhal” in the remark column. The father of petitioners no. 1 to 3 filed a suit under Section 106 of the Bihar Tenancy Act bearing Suit No. 2240 of 1970 for correction of the survey entry, which was allowed vide order dated 07.03.1972. The remark column showing “Awaidh Dakhal” of father of contesting respondents was expunged. The appeal filed by respondent nos. 5 to 7 against the order dated 07.03.1972 under B.T. Act was dismissed. The petitioner no.4, Damati Devi filed a suit bearing Suit No. 222 of 1975 in the court of Additional Munsif, Bhabhua for confirmation of the possession. The trial court in its order dated 20.03.1987 stated that the suit has abated in view of initiation of Consolidation Proceeding in the area. However the ancestors of contesting respondent, namely, Jaga Singh, has filed Title Suit No. 49 of 1975.

3. The petitioners submit that no notice was served to the contesting defendants, who were the very own family members of the petitioners. The suit was decreed ex-parte in favour of Jaga Singh. The petitioners’ side filed a Misc. Case bearing Misc. Case No. 07 of 1978 under Order IX Rule 13 for setting aside the ex-parte decree, which was dismissed. An appeal filed against the said dismissal too failed. The petitioners thereafter filed Civil Rev. application before this Court bearing Civil Revision No. 1743 of 1981. The Civil Revision application was disposed with a direction to resolve their

matters before the Consolidation Officer.

4. The resultant effect was that the order of the trial court dismissing the miscellaneous case was not set aside and the impugned judgment/decreed dated 24.01.1978 passed by the Civil Court in Title Suit No.49 of 1975 was not interfered with and the judgment of Munsif, Bhabhua passed in Title Suit no. 45 of 1975 remained unaltered. The Director Consolidation on the basis of said judgment has decided the consolidation matter in favour of the respondents. I do not find any fault in the order of the Director Consolidation, however, I would like to point out that the order of Consolidation authority is not an order deciding the right and title of the parties. It is relevant to state that judgment and decree in a suit would bind the parties in turn and not the ones, who is not party to the suit.

5. Having regard to the facts and circumstances and in the interest of justice, the petitioners if advised may file a fresh suit in respect of their right and title over the suit land.

6. The writ application accordingly disposed of.

(Samarendra Pratap Singh, J.)

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