

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.607 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 4282 of 2008

1. Ram Murat Nonia Son of Late Ram Vilash Nonia
2. Jawahir Nonia Son of Late Ram Vilash Nonia
3. Sheo Murat Nonia Son of Late Ram Vilash Nonia

All Are Residents of Village - Belaon, P.S. Bhagwanpur, District - Kaimur (Bhabhua) At Present Rampur Consolidation Office, P.S. Bhabhua, District - Kaimur (Bhabhua)

.... Appellant/s

Versus

1. The State of Bihar
2. Director, Consolidation, Bihar, Patna
3. Deputy Director of Consolidation, Rohtas - Cum - Kaimur
4. Consolidation officer, Bhagwanpur, District Kaimur (Bhabhua)
5. Assistant Consolidation officer, Bhagwanpur, District - Kaimur (Bhabhua)
6. Sheo Pujan Mahto Son of Late Harpat Mahto
7. Aliar Mahto Son of Late Harpat Mahto
8. Surendra Mahto Son of Late Harpat Mahto

Respondents 6 To 8 Are Residents of Village - Belaon, P.S. Bhagwanpur, District - Kaimur (Bhabhua) At Present Rampur, P.O. Kharenda, Sub - Division Bhabhua, District Kaimur (Bhabhua)

.... Respondent/s

Appearance :

For the Appellants : Mr. Jitendra Prasad Singh with
Mr. Abhishek, Advocates
For the State : Mr. R.B.N. Singh, AC to GA 10
For the Respondents No. 6, 7 and 8 : Mr. Jitendra Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-09-2016

The order dated 17th September, 2013 passed by the learned Single Bench of this Court is the subject matter of challenge in the present Letters Patent Appeal. By the aforesaid order, the revision filed before the Director, Consolidation under Section 35 of

the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the 'Act') was dismissed on 13.12.2007 on the ground that after confirmation of *Mauja* and issuance of certificate of transfer, the appellants cannot raise the dispute *de novo*.

A perusal of the order shows that the Consolidation Officer passed an order on 22.07.1976, though no appeal against the said order was filed but a revision was filed after more than two decades. The revisional has been rightly dismissed for the reason that the revisional jurisdiction is required to be invoked within a reasonable time and not after deep slumber.

We do not find any error in the order passed by the learned Single Bench. The Revisional jurisdiction can be exercised under Section 35 of the Act, even in the absence of any time limit fixed therein, within a reasonable time. Such is the view taken by the Supreme Court in a judgment reported as ***Collector v. D. Narsing Rao, (2015) 3 SCC 695***, wherein the Court held as follows:-

“31. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power

especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority.”

Therefore, the appellants could not seek set aside of an order passed by the Consolidation Officer in the year 1976 by way of a revision filed in the year 2007.

In view thereof, we do not find any illegality in the order passed by the Revisional Authority and by learned Single Bench which may warrant interference in the present Letters Patent Appeal and the same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P. Kumar

AFR/NAFR	NAFR
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