

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10954 of 2010

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Paras Bhagat, S/O Late Kishundeo Bhagat, R/O Vill.- Dumrauna, P.S.-
Kateya, Distt.- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Gopalganj
3. The Joint Director of Consolidation, Muzaffarpur
4. The Assistant Consolidation Officer, Siwan
5. The Consolidation Officer, Kateya, Distt.- Gopalganj
6. Ram Das Bhagat
7. Ram Nath Bhagat
8. Sheo Nath Bhagat
9. Sheo Ratan Bhagat
10. Harendra Bhagat

All sons of Late Batoran Bhagat, R/O Vill.- Dumrauna, P.S.- Kateya, Distt.-
Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Sr.Adv.
Mr. Bhola Kumar, Adv.
Mr.Ashish Sinha, Adv.

For the Respondent nos.1to5 : Mr. Biresh Kumar Sinha, AC to AAG-2
For the Respondent nos.6to10 : Mr.Saroj Kumar Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 09-02-2016

Heard.

The petitioner is aggrieved by the order dated 26.11.1993 passed in Consolidation Revision Case No.338 of 1993 by the respondent Joint Director of Consolidation, Muzaffarpur, as contained in Annexure-1 to the writ petition, whereby the aforesaid revision application filed on behalf of one Batoran Bhagat, who is now dead and whose heirs and legal representatives are the respondent nos.6 to 10 being his sons, under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 has been allowed and the order passed by the Deputy Director of Consolidation has been set aside.



The learned senior counsel appearing on behalf of the petitioner submits that with respect to the lands in question, fully detailed in paragraph 4 of the writ petition, the claim of the petitioner was allowed by the Consolidation Officer as also by the appellate authority, but the same has been set aside and reversed by the revisional authority without giving any opportunity of hearing to the petitioner. He further submits that, though the petitioner was party in the aforesaid revisional proceeding, but at no point of time, he was given any opportunity of hearing and no notice was ever served upon him. It is contended that the notice was effected bala-bala upon the petitioner and, therefore, there has been violation of rules of natural justice. According to him, the impugned order is liable to be set aside on merits as also on the ground of violation of rules of natural justice.

The learned counsel appearing on behalf of the respondent nos.1 to 5 and the learned counsel appearing on behalf of the respondent nos.6 to 10, though have opposed the prayer made on behalf of the petitioner in the present writ petition, but they have not been able to show that any notice was ever served upon the petitioner or he was given any opportunity of hearing before passing the impugned final order.

Furthermore, this Court finds that the writ petition was filed on 15.07.2010 and notices were issued to the respondent nos.6 to 10 by an order dated 19.07.2010, yet no counter affidavit has been filed till date either by the learned State counsel or by the learned counsel appearing on behalf of the respondent nos.6 to 10. Apparently, there has been violation of rules of natural justice.

In above view of the matter, this Court is of the opinion that the matter requires reconsideration and fresh

decisions by the revisional authority. Accordingly, the impugned order dated 26.11.1993 passed in Consolidation Revision Case No.338 of 1993 by the respondent Joint Director of Consolidation, Muzaffarpur, as contained in Annexure-1 to the writ petition, is hereby set aside and quashed, and the matter is remitted to the Director of Consolidation, Bihar, Patna with a direction to decide the aforesaid Consolidation Revision Case No.338 of 1993 afresh after giving an opportunity of hearing to the petitioner and the respondent nos.6 to 10, besides others, if any.

In order to expedite the matter, the petitioner as also the respondent nos.6 to 10 are hereby directed to appear before the Director of Consolidation, Bihar, Patna within a period of one month from today with a certified copy of the present order, whereafter the Director of Consolidation, Bihar, Patna shall proceed further to decide the aforesaid Consolidation Revision Case No.338 of 1993 strictly in accordance with law by a reasoned and speaking order, but, before passing any final order, an opportunity of hearing must be given to all concerned.

The parties shall be at liberty to raise all the issues of facts and law, which may be available to them, before the Director of Consolidation, Bihar, Patna with respect to the lands in question.

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

Arvind/-

(Birendra Prasad Verma, J)

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