

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10645 of 2004**

=====

Sangeeta Devi, wife of Amod Kumar Yadav, resident of village-Rajapakar,  
P.S.-Rajapakar, Anchal-Mohua, District-Vaishali.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Director, Consolidation, Bihar, Patna.
2. The Joint Director, Consolidation, Muzaffarpur.
3. Suchitra Devi, daughter of late Thakur Rai, resident of village-Panapur,  
Sukhanand Bindupur, District-Vaishali at Hajipur.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Subodh Prasad, Adv.  
Mr.Madhu Prasad, Adv.

For the Respondent nos.1&2 : Mr. Sanjay Kumar, AC to GA-5

=====

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**  
**ORAL ORDER**

6      03-02-2016

Heard the learned counsel for the petitioner and the learned AC to GA-5 appearing on behalf of the respondent nos.1 and 2. However, despite valid service of notice, none appears on behalf of the respondent no.3.

The petitioner is aggrieved by the order dated 31.01.1997 passed in Consolidation Revision Case No.714 of 1992 by the respondent Joint Director of Consolidation, Muzaffarpur, as contained in Annexure-4 to the writ petition, whereby the aforesaid consolidation revision case filed by the respondent no.3 under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short 'Act, 1956') has been allowed ex parte and the claim of the respondent no.3 with respect to the lands in question, fully detailed in paragraph 3 of the writ petition has been accepted.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is the daughter of one Rajendra Rai against whom the impugned order dated 31.01.1997



was passed. He further submits that aforesaid Rajendra Rai died on 29.11.2001 leaving behind the present petitioner as his sole heir and legal representative. It is next contended that aforesaid Rajendra Rai had gifted the lands in question, besides others, in favour of the petitioner by four deeds of gift dated 30.10.2001 and she was put in possession over the same. It is further contended that, apart from the merit, the impugned revisional order dated 31.01.1997 is not sustainable on two grounds; firstly, the impugned revisional order has been passed without valid service of notice either on the petitioner or her deceased father and the entire proceeding was carried out without giving reasonable opportunity of hearing to them; secondly, a Division Bench of this Court in the case of **Bihar Yuva Adhiwakta Kalyan Samiti & Anr. Vs. The State of Bihar & Ors. [1991(1) PLJR 541]** had quashed the notification issued by the Director of Consolidation specifying the territorial jurisdiction as well as seats of the Joint Director of Consolidation at different places and it was held that the seat of the Joint Director of Consolidation has to be at Patna only and not at Muzaffarpur, besides other places. Therefore, according to him, the Joint Director of Consolidation having his seat at Muzaffarpur could not have passed the impugned order and on that ground also the impugned revisional order is liable to be set aside and quashed.

The learned State counsel appearing on behalf of the official respondents, by referring to the averments made in the counter affidavit filed on behalf of the respondent no.2, submits that the notice was issued to the aforesaid Rajendra Rai, the father of the present petitioner, in the aforesaid revision case no.714 of 1992, but despite repeated query he has not been able to show any

documents/materials that notices were actually served upon the aforesaid Rajendra Rai, the father of the petitioner. As noticed above, the respondent no.3 has chosen not appear and contest the matter despite valid service of notice upon her.

After having heard the parties and on going through the materials available on the record, this Court is of the opinion that the matter requires re-consideration and fresh decisions by the revisional authority, as apparently rules of natural justice has not been followed and reasonable opportunity of hearing was not given either to the petitioner or her father, when the impugned revisional order was passed as contained in Annexure-4. Since this Court is inclined to remit the matter back to the revisional authority; therefore, this Court refrains from making any observations about the merits of the case of the parties.

For the reasons recorded above, the impugned order dated 31.01.1997 passed in Consolidation Revision Case No.714 of 1992 by the respondent Joint Director of Consolidation, Muzaffarpur, as contained in Annexure-4 to the writ petition, is hereby set aside and quashed, and the matter is remitted back to the Director of Consolidation, Bihar, Patna with a direction to decide the aforesaid Consolidation Revision Case No.714 of 1992 afresh after giving an opportunity of hearing to all concerned.

In order to expedite the matter, the petitioner is directed to appear before the Director of Consolidation, Bihar, Patna with a certified copy of the present order within a period of six weeks from today, whereafter the Director of Consolidation, Bihar, Patna shall proceed to decide the aforesaid Consolidation Revision Case No.714 of 1992 strictly in accordance with law, but before passing any final order an opportunity of hearing must be

given to the petitioner and the respondent no.3, besides others, if any.

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

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, there shall be no order as to costs.

**(Birendra Prasad Verma, J)**

Arvind/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|