

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10145 of 2010

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Mosque Situated At Mauza Salaiya Police Station Kothi, Distt.- Gaya
through its Mottwali Iftakhar Khan, S/O Marchhu Khan R/O Vill.- Sohail,
P.O. Salaiya, P.S. Kothi, Distt.- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
2. Joint Director of Consolidation, Gaya
3. Consolidation Officer, Imamganj, Distt.- Gaya
4. Keshar Yadav, S/O Mischu Yadav, R/O Vill.- Salaiya, P.S. Kothi, Distt.- Gaya
5. Anshar Ahmad Khan, S/O Abdul Rashid Khan @ Budhai Khan, R/O Vill.- Salaiya, P.S. Kothi, Distt.- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh
For the Respondent nos.1to3	:	Mr. Rakesh Ambastha, AC to AAG-15
For the Respondent no.4	:	Mr.Surendra Kumar Singh, Sr.Adv. Mr.Praveen Prakash, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 09-02-2016

Heard.

The petitioner is aggrieved by the order dated 31.01.2006 passed in Consolidation Revision Case No.10 of 2000 by the respondent Joint Director of Consolidation, Gaya, as contained in Annexure-4 to the writ petition, whereby the aforesaid revision application filed on behalf of the respondent no.4 under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 has been allowed with respect to the lands in question mentioned in the impugned order as also in paragraph 4 of the writ petition.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is the transferee of the lands in question through registered deed of waqfnama dated 19.09.1989 and the private respondent no.4 is also transferee of the lands in question through registered deed of sale of the year 1993 and both

of them are transferees of the respondent no.5. It is further submitted that, though the petitioner was having his right and title over the lands in question, yet before the revisional authority neither it was made party nor any opportunity of hearing was given to it. Therefore, according to the learned counsel, 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 no.4 has contested the matter and has submitted that the present writ petition is liable to be dismissed on the ground of delay and laches itself. According to him, the impugned revisional order was passed on 31.01.2006 and the present writ petition was filed on 02.07.2010, but no valid explanation has been furnished by the petitioner for approaching this Court after such a long time. On merits also, he contested the claim of the petitioner. But, despite all his efforts, he has not been able to show that before passing the impugned revisional order any opportunity of hearing was given to the petitioner.

The present writ petition was filed on 02.07.2010 and the notices were issued to the respondent nos.4 and 5 on 05.07.2010, but till date no counter affidavit has been filed by any of the respondents controverting the averments made in the writ petition.

In the aforesaid factual matrix, this Court is of the opinion that the matter requires reconsideration and fresh decisions by the revisional authority, as admittedly the rules of natural justice have not been followed before passing the impugned final order by the respondent Joint Director of Consolidation, Gaya.

For the reasons recorded above, the impugned order dated 31.01.2006 passed in Consolidation Revision Case No.10 of 2000 by the respondent Joint Director of Consolidation, Gaya, as contained in Annexure-4 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.10 of 2000 afresh, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner, the respondent nos.4 and 5, besides others, if any.

In order to expedite the matter, the petitioner and the respondent no.4 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.10 of 2000 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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