

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13736 of 2007

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Shio Pujan Tiwari, son of late Ghurlet Tiwari, resident of village-Bellaon,
P.S.-Bhagwanpur, District-Kaimur (Bhabhua)

.... Petitioner/s

Versus

1. The State of Bihar
 2. Director Consolidation, Bihar, Patna.
 3. Consolidation Officer, Bhagwanpur, District-Kaimur (Bhabhua).
 4. Smt. Radhika Devi, wife of Jhiloo Dhobi
 5. Jhiloo Dhobi, son of Sri Badari Dhobi
- Both are resident of village-Bellaon, P.S.-Bhagwanpur, District-Kaimur (Bhabhua)
6. Most. Reshma Kuer, wife of late Chilar Singh, resident of village-Bellaon, Police Station Bhagwanpur, Distict-Kaimur Bhabhua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhruv Narayan, Sr.Adv.
Mr. Jitendra Prasad Singh, Adv.
Mr. Abhishek, Adv.

For the Respondent nos.1to3: Mr. Umesh Narayan Dubey, AC to GP-27
For the Respondent nos.4&5 : Mr. Amish Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

4 04-08-2016

Heard the parties.

The petitioner is aggrieved by the order 14.05.2007 passed in Consolidation Revision Case No.146 of 2001 by the Director of Consolidation, Bihar, Patna, as contained in Annexure-2 to the writ petition, whereby aforesaid revision application filed on behalf of the respondent no.4 straightaway before the Director of Consolidation, Bihar, Patna under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short 'Act, 1956') was allowed.

The learned senior counsel appearing on behalf of the petitioner submits that the petitioner had purchased a parcel of land in the year 1987, whereas the respondent nos.4 and 5 had also purchased a parcel of land in the year 2001 from the common

vendor Most. Reshma Kuer, the respondent no.6, yet, before passing the impugned revisional order, the petitioner was neither impleaded as party respondent nor he was given an opportunity of hearing. Therefore, on the ground of violation of rules of natural justice, the impugned revisional order is liable to be set aside and quashed.

The learned counsel appearing on behalf of the respondent nos.4 and 5, on the other hand, submits that the petitioner has no concern with the lands in question; therefore, he was not impleaded as party respondent in the aforesaid revision case. According to him, the dispute regarding the land in question was only between the respondent nos. 4 and 5 at one side and one Gopal Ji Tiwari on the other side and not with the petitioner. Hence, the petitioner was not required to be heard and on that account the impugned revisional order cannot be legally faulted.

After having heard the parties and on consideration of the materials available on the record, this Court finds that the petitioner as also the respondent nos.4 and 5 had purchased their respective area of land from their common vendor Most. Reshma Kuer (respondent no.6). The petitioner purchased his land in the year 1987 through a registered sale deed, whereas the respondent nos.4 and 5 purchased their land in the year 2001 through another registered sale deed, but from their common vendor. Hence, there is some dispute amongst them.

In above view of the matter, in the considered opinion of this Court, the petitioner ought to have been heard before passing the impugned revisional order by the Director of Consolidation, Bihar, Patna, since both of them are claiming their right and title over the respective portion of the lands in question.

For the reasons recorded above, the impugned order dated 14.05.2007 passed in Consolidation Revision Case No.146 of 2001 by the Director of Consolidation, Bihar, Patna, as contained in Annexure-2 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.146 of 2001 filed by the respondent no.4 under Section 35 of the Act, 1956 afresh on merits, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner, the private respondent nos.4 to 6 as also one Gopal Ji Tiwari, besides others, if any.

In order to expedite the matter, the petitioner as also the respondent nos.4 and 5 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 respondent Director of Consolidation, Bihar, Patna shall proceed to decide the matter afresh on merits in accordance with law by keeping in mind the observations made above.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. No costs.

(Birendra Prasad Verma, J)

Arvind/-

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