

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19239 of 2015

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1. Pushpa Devi wife of Late Sheo Charan Koiri @ Late Sheo Charan Kushwaha

2. Guru Charan Koiri @ Guru Charan Kushwaha @ Guru Charan Singh Kushwaha son of Late Jai Nath Koeri

3. Hari Charan Koiri @ Haricharan Kushwaha @ Hari Charan Singh son of Late Jai Nath Koiri

All resident of village Deohaliya, Post Deohaliya, P.S.Ramgarh, Anchal Ramgarh, District Kaimur at Bhabua Petitioner/s

Versus

1. The State of Bihar

2. The Director of Consolidation, Bihar at Patna

3. Arjun Koiri son of Late Gurphekan Koiri

4. Ram Jus Koiri son of Late Dudh Nath Koiri

5. Radhey Shayam Koiri son of Late Ram Deni Koiri

Respondent Nos. 3 to 5 are residing at Village Deohaliya, Post Deohaliya, P.S.Ramgarh, Anchal, Ramgarh, District Kaimur at Bhabua Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate

For the Respondent Nos. 1 & 2 : Mrs. Babita Kumari, AC to SC 18

For the Respondent Nos. 3 to 5 : Mr. S.D.Yadav, Advocate

Mr.Dharmendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 12-01-2016 Heard the learned counsel appearing on behalf of the petitioners, the learned AC to SC 18 appearing on behalf of the respondent nos. 1 and 2 and Mr.S.D.Yadav, the learned counsel appearing on behalf of the respondent nos. 3 to 5, who have voluntarily chosen to appear in the present proceeding.

2. The petitioners are aggrieved by the order dated 10.07.2015 passed in BLT Case No. 481 of 2015 by the learned Bihar Land Tribunal, Patna, as contained in Annexure-4, whereby the aforesaid case filed on behalf of the petitioners has been dismissed on the ground of limitation, and thereby an ex-parte order dated 02.08.2013 passed in Consolidation Revision Case No. 273 of 2012 (Annexure-3) by the respondent Director of Consolidation, Bihar, Patna has been affirmed.



3. Learned counsel appearing on behalf of the petitioners submits that the private respondent nos. 3 to 5 had filed the aforesaid Consolidation Revision Case No. 273 of 2012 before the respondent Director of Consolidation, Bihar, Patna under Section 35 of the Bihar Consolidation of Holdings (Prevention of Fragmentation) Act, 1956 with respect to lands in question, fully detailed in paragraph 4 of the present writ petition. It is further submitted that though the petitioners were impleaded as parties in the aforesaid Consolidation Revision case before the respondent Director of Consolidation, but without valid service of notice upon them final order was passed ex-parte allowing the claim of the private respondents with respect to lands in question. In support of his contention that notices were not validly served upon the petitioners, ordersheets of the aforesaid consolidation revision case has been brought on record as Annexure-2 to this writ petition. It is next contended that once the petitioners came to know about the impugned revisional order dated 02.08.2013, then they approached the learned Bihar Land Tribunal, Patna under Section 9 of The Bihar Land Tribunal Act, 2009 for redressal of their valid grievances, but the learned Tribunal, without going into the merits of the case, has dismissed the aforesaid petition filed on behalf of the petitioners on the ground of limitation. Therefore, it is pleaded that the entire matters require reconsideration and a fresh decision on merits.

4. Learned counsel appearing on behalf of the respondent nos. 3 to 5 has strongly opposed the prayer and has argued the matter for a quite some time. According to him, the case filed by the petitioners before the learned Bihar Land Tribunal, Patna was hopelessly barred by limitation. Therefore, the learned Tribunal has rightly dismissed the aforesaid case filed on behalf of the petitioners. He further contended that, though the

petitioners had knowledge/information about the aforesaid revision case, yet they had chosen not to appear before the revisional court and therefore, the respondent Director of Consolidation had no option, but to proceed and decide the aforesaid revision case filed on behalf of the respondent nos. 3 to 5 on merits, though ex-parte.

5. After having heard the parties and taking into consideration the materials available on record, this Court is of the opinion that the entire matters require reconsideration and a fresh decision by the revisional authority at the first instance. Indisputably, the private respondents had filed the aforesaid revision case before the respondent Director of Consolidation, Bihar, Patna. In the impugned revisional order, though the respondent Director of Consolidation, has recorded a finding that notices were issued to the present petitioners, but he proceeded ex-parte as the opposite parties therein did not appear to contest the case. From the ordersheets of the revisional court (Annexure-2) it does not appear that notices were validly served upon the present petitioners. To me, it appears that the rules of natural justice was not followed before passing the impugned revisional order. The learned Tribunal ought to have taken into consideration this aspect of the matter, but it failed to do so and has rejected the petition filed on behalf of the petitioners merely on the ground of limitation.

6. For the reasons recorded above, the impugned order dated 10.07.2015 passed in BLT Case No. 481 of 2015 (Annexure-4) by the learned Bihar Land Tribunal, Patna as also the impugned revisional order dated 02.08.2013 passed in Consolidation Revision Case No. 273 of 2012 (Annexure-3) by the respondent Director of Consolidation, Bihar, Patna are hereby set aside and quashed and the matter is remitted back to the court

of respondent Director of Consolidation, Bihar Patna with a direction to decide the aforesaid revision case filed on behalf of the respondent nos. 3 to 5 afresh on merits in accordance with law, but before passing any final order, an opportunity of hearing must be given to the petitioners as also the respondent nos. 3 to 5, besides others, if any.

7. In order to expedite the matter, the petitioners as also the respondent nos. 3 to 5 are hereby directed to appear before the respondent 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 fix a firm date to decide the aforesaid Revision Case No. 273 of 2012 afresh strictly on merits at an early date preferably within a period of four months from the date of appearance of the parties before him.

8. It is clarified that 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 respondent Director of Consolidation, Bihar, Patna.

9. Till the matter is decided afresh by the respondent Director of Consolidation, Bihar, Patna, as per above directions, parties shall maintain status quo, as obtaining today, over the lands in question.

10. 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.

(Birendra Prasad Verma, J)

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