

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6092 of 2009

1. Bikram Paswan

2. Sitabi Paswan

Both sons of late Jogi Paswan

3. Bhagi Devi, daughter of late Khusi Paswan

4. Bhogi Paswan, son of late Khubi Paswan

All resident of village-Nemua, P.O.-Ram Dutt Patti, Police Station and District-Supaul.

.... Petitioner/s

Versus

1. The State of Bihar

2. The Director of Consolidation, Bihar, Patna

3. Sri Hari Kishore Singh, son of late Mithleshwar Prasad Singh, resident of village+P.O.-Sukhpur, Police Station and District-Supaul.

4. Ram Lochan Paswan, son of late Kalar Paswan

5. Jogeshwar Paswan, son of late Shanti Paswan

6. Satrugan Prasad, son of late Bhogi Paswan

Respondent nos.4 to 6 are resident of village-Malni, P.O.-Sukhpur, Police Station & District-Supaul.

7. Sudama Devi, wife of Sri Asarfi Paswan, resident of village-Nemua, P.O.-Rampatti, Police Station & District-Supaul.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pd.Singh, Adv.

For the Respondent nos.6&7 : Mr. Pramod Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 29-01-2016

Heard the parties.

The petitioners are aggrieved by the order dated 13.02.2009 passed in Consolidation Revision Case No.179 of 2007 by the respondent Director of Consolidation, Bihar, Patna, as contained in Annexure-5, whereby the aforesaid revision application filed on behalf of the respondent no.3 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') has been allowed with respect to the lands in question.

The learned counsel appearing on behalf of the petitioners submits that the aforesaid revision application filed on behalf of the respondent no.3 straightaway before the revisional



authority under Section 35 of the Act, 1956 after a long time was not maintainable and, therefore, the impugned revisional order is liable to be set aside and quashed by this Court. In support of his above contentions, he has placed reliance on two judgments of two learned Single Judges of this Court in the cases of **Mostt. Indrasani Kunwar @ Inarsani Kunwar Vs. The State of Bihar & Ors. [2000(1) BLJ 502]** and **Subedar Mahto.Vs. The Joint Director of Consolidation & Ors. [1998 (3) PLJR 47]**. It is contended that, since no objection was filed on behalf of the respondent no.3 in terms of Section 10 of the Act, 1956; therefore, the entire subsequent claims made by him before the revisional authority straightaway under Section 35 of the Act, 1956 was hit by the provisions contained in Section 10-A of the Act, 1956. He further contended that, though the matter was relating to allotment of chak, but, at the same time, the respondent Director of Consolidation has decided the question of title also.

I have examined the records of the present case and have carefully gone through the impugned order passed by the revisional authority, as none is appearing on behalf of the official respondents and the contesting respondents.

The matter arises out of a consolidation proceeding relating to allotment of chak with respect to the lands in question, as detailed in paragraph 5 of the writ petition.

So far the points taken by the learned counsel for the petitioners that the revision application filed on behalf of the respondent no.3 straightaway before the respondent Director of Consolidation was not maintainable, in view of the judgments of two Hon'ble Judges of this Court, referred to above, is concerned, that is completely misconceived and untenable in view of the judgment by a Full Bench of this Court in the case of **Seikh Haidar Zan Vs. Md. Yusuf Ansari & Anr. [2000(2) PLJR 338 para 20]** as also a Division Bench judgment of this Court in the

case of **Ram Sundar Chaudhary & Ors. Vs. Ram Nath Chaudhary & Ors. [2003(2) PLJR 184]**. The aforesaid Full Bench of this Court has clearly laid down the law that bar created under Section 10-A of the Act, 1956 is not applicable while exercising the power of revision under Section 35 of the Act, 1956. The Division Bench of this Court has also held in para 7 in the case of **Ram Ram Sundar Chaudhary Vs. Ram Nath Chaudhary (supra)** that revision application under Section 35 of the Act, 1956 can directly be filed without taking recourse to the remedy of appeal and bar created under Section 10-A of the Act, 1956 is not applicable to the exercise of revisional power under Section 35 of the Act, 1956. It was also held that the power of revision under Section 35 of the Act, 1956 is an independent power unfettered or undisturbed by any other provision of law.

It is also well settled that in the matter relating to allotment of chak in a consolidation proceeding, this Court seldom interferes in such matters by exercising powers of judicial review under Article 226 of the Constitution of India. Admittedly, while passing the impugned revisional order, the petitioner was given full opportunity of hearing and the points raised on behalf of the petitioners were fully considered by the revisional authority and, thereafter, the impugned order was passed.

That being the factual and legal position, this Court does not find any good ground to interfere with the impugned order, as contained in Annexure-5. The writ petition seems to be completely misconceived and is, accordingly, dismissed, but without costs.

Arvind/-

(Birendra Prasad Verma, J)

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