

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18411 of 2008

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Juwa Devi daughter of late Bachaa Yadav, resident of village- Jharka, Tola- Harpur, P.O.- Gidarhi, Ratrauli, P.S.- Pipra, District- Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Consolidation, Bihar, Patna.
3. The Deputy Director of Consolidation, Saharsa.
4. The Consolidation Officer, Saharsa.
5. Laldhari Yadav son of late Bajrangi Yadav, resident of village- Jagur, P.S. Tribeniganj, District- Saharsa (now Supaul).
6. Rajdeo Yadav son of Deo Narain Yadav of Village- Jharka, tola- Haripur, P.O. Gidarhi, P.S. Pipra, District- Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha
Mr. Naresh Kumar Mehta
Mr. Ashok Kumar

For the Respondent no.1 to 4: Mr. M. Nasmul Hoda Khan, SC- 18
Md. Naushaduzzoha, AC to SC-18

For the Respondent No. 5 : Mr. Naresh Chandra Verma
Mr. Natraj Verma

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

6 29-06-2016 Heard the parties.

The petitioner is aggrieved by the order dated 31.07.2007 passed in Consolidation Revision Case No. 4 of 2002 by the Director of Consolidation, Bihar, Patna, as contained in Annexure-2, whereby in exercise of his powers under Section 35 of The Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (In short 'Consolidation Act'), he has allowed the revision application filed on behalf of the respondent no. 5 and has directed for dividing the ancestral properties half and half between the writ petitioner and the private respondent no. 5.

The learned counsel appearing on behalf of the petitioner submits that the lands in question was originally belonging to one Gokul Mandal, who died leaving behind his two

sons namely Basudeo Yadav and Bacha Yadav and one daughter namely Khikhari Devi. Amongst the aforesaid three siblings, Basudeo Yadav died issueless. The writ petitioner Yuwa Devi is the daughter of Bacha Yadav and the respondent no.5- Laldhari Yadav is the son of Khikhari Devi.

The learned counsel appearing on behalf of the petitioner, while assailing the impugned order, has raised only one point that while exercising the powers of revision under Section 35 of the Consolidation Act, the respondent Director of Consolidation could not have decided the title of the parties over the lands in question and the Director could have decided only allotment of chaks amongst them. However, despite repeated query, he has not been able to show such provision under the Consolidation Act, which restrains the Director of Consolidation from examining the question of title of the parties, while passing the orders under the provision of the Consolidation Act. He has also not been able to show any judicial pronouncement either of this Court or the Hon'ble Apex Court supporting his submission.

The learned counsel appearing on behalf of the respondents, on the other hand, submitted that the genealogy indicated above, is not in dispute. The respondent no. 5 is admittedly the son of Khikhari Devi, who died in the year 1959 as per assertions made in paragraph-6 of the counter-affidavit filed on behalf of the respondent no. 5. He further submitted that the consolidation authorities are required to examine all the issues of facts and law with respect to the parcels of land, while passing any order under the provisions of the Consolidation Act and, there is no legal bar in deciding the question of title.

After having heard the parties and taking into

consideration the fact that the petitioner as also the respondent no. 5 are admittedly the heirs and legal representatives of the son and daughter of Gokul Mandal, who was admittedly the owner of the lands in question, as one of his sons, namely, Basudeo Yadav died issueless leaving behind two siblings namely Bacha Yadav and Khikhari Devi as his heirs, this Court is of the opinion that the respondent Director of Consolidation has rightly directed for partition of the properties in question half and half between the petitioner and the respondent no.5.

For the reasons recorded above and in view of the fact that no other procedural error or legal infirmity was pointed out by the learned counsel appearing on behalf of the petitioner, this Court does not feel persuaded to interfere with the impugned order, as contained in Annexure-2, passed by the respondent Director of Consolidation, Bihar, Patna.

The writ petition is devoid of merit and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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