

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11735 of 2006

=====

1. Vijay Kumar Jha
2. Paras Nath Jha
3. Shyam Kant Jha @ Kanhaiya Jha
4. Om Prakash Jha
5. Gopi Nath Jha
6. Praveen Kumar Jha
All sons of Late Ganga Nath Jha, resident of Village Kusumpur Bakhri,
P.S.Riga, District Motihari Petitioner/s

Versus

1. The State of Bihar
2. Joint Director, Consolidation (Muzaffarpur), Patna
3. Assistant Director, Consolidation, Sitamarhi
4. Consolidation Officer, Riga, District Sitamarhi
5. Sarbjeet Jha son of Late Dukhan Jha, resident of Village Kusumpur Bakhari,
Police Station Riga, District Sitamarhi Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 4326 of 2008

=====

1. Vijay Kumar Jha
2. Paras Nath Jha
3. Shyam Kant Jha @ Kanhaiya Jha
4. Om Prakash Jha
5. Gopi Nath Jha
6. Praveen Kumar Jha
All sons of Late Ganga Nath Jha, resident of Village Kusumpur Bakhri,
P.S.Riga, District Motihari Petitioner/s

Versus

1. The State of Bihar
2. Joint Director, Consolidation (Muzaffarpur), Patna
3. Assistant Director, Consolidation, Sitamarhi
4. Consolidation Officer, Riga, District Sitamarhi
5. Chandrashekhar Jha son of Late Nawal Kishore Jha, resident of Village
Kusumpur Bakhari, Police Station Riga, District Sitamarhi (**Expunged vide
order dated 12.04.2010 and substituted by his following heirs and legal
representatives**)
5(i) Jaleshwar Jha (son)
5(ii) Krishnadev Jha (son)
5(iii) Srinath Jha alias Chhotu Jha (son)
5(iv) Madhav Jha (son)
5(v) Sachitanand Jha (son)
5(vi) Raj Kumar Jha (son)
5 (vii) Gopal Kumar Jha (son) Respondent/s

=====

Appearance :
(In CWJC No.11735 of 2006)

For the Petitioner/s : Mr. Utsav Kumar, Advocate
For the Respondent Nos. 1 to 4: Mr.Kaushal Kishore Jha, AAG 8
Mr.Shankar Kr.Choudhary, AC to AAG 8

(In CWJC No.4326 of 2008)

For the Petitioner/s : Mr. Utsav Kumar, Advocate
For the Respondent Nos. 1 to 4: Mr.Durgesh Nandan, AAG 14
Mr.Umesh Kumar, AC to AAG 14

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 04-08-2016

In both the writ petitions, issues of facts and law are almost common and identical; therefore, with the consent of the parties, both the writ petitions have been heard together and are being disposed of by this common order.

2. The petitioners of both the writ petitions are aggrieved by a common order dated 15.06.2006, as contained Annexure-8 in both the writ petitions, passed analogously in Consolidation Revision Case No. 2260 of 1985 and Consolidation Revision Case No. 2259 of 1985 by the respondent Joint Director of Consolidation, Muzaffarpur, whereby the aforesaid two revision applications filed on behalf of the private respondent no. 5 in both the writ petitions, after remand made by this Court, was allowed and the order passed by the appellate authority was set aside and that of the original authority was affirmed.

3. The learned counsel appearing on behalf of the petitioners in both the writ petitions has submitted that the petitioners and the private respondents are descendants of their common ancestor namely, Kameshwar Jha. He further submits that the claims raised on behalf of the private respondents with respect to the lands in question, was allowed by the Consolidation Officer, Sitamarhi by order dated 03.09.1973 and 17.09.1973 respectively passed in Case Nos. 23 of 1973 and 28 of 1973, as contained in Annexure-2 in both the writ petitions, which was reversed by Assistant Director of Consolidation,



Sitamarhi by order dated 24.08.1985 passed analogously in Appeal Nos. 134 of 1982 and 135 of 1982, as contained in Annexure-4 in both the writ petitions. However, Revision Case Nos. 2259 of 1985 and 2260 of 1985 filed behalf of the private respondents against the aforesaid appellate order were allowed by the Joint Director of Consolidation (Muzaffarpur), Patna by order dated 07.03.1986, as contained in Annexure-5 in both the writ petitions, but liberty was granted to the aggrieved party to approach the civil court of competent jurisdiction for grant of appropriate relief(s) after issuance of Notification under Section 26A of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short, “the Consolidation Act”) by the State Government.

4. It is pointed out that the father of the petitioners not being satisfied with the aforesaid revisional order approached this Court in CWJC No. 2052 of 1986 and CWJC No. 2554 of 1986 which were finally allowed by order dated 17th January, 1997 (Annexure-6) and the matter was remitted back to the revisional authority with a direction to decide the claim of the parties afresh. However, after remand made by this Court, the matter was heard and decided afresh and by impugned revisional order dated 15.06.2006 (Annexure-8) the aforesaid two revision applications filed on behalf of the private respondents were allowed and order passed by the appellate authority was set aside.

5. The learned counsel appearing on behalf of the petitioners though has argued the matter at some length, but has not been able to point out any procedural error or legal infirmity in the order impugned. However, he contended that there is serious dispute of right and title between the parties, as both sides are descendants of their common ancestor.

6. The learned State counsel appearing on behalf of the official respondents in both the writ petitions have supported the impugned order and have submitted that the impugned revisional order is quite exhaustive and may not be interfered with by this Court. However, none is appearing on behalf of the private respondent no.5 in both the writ petitions, despite issuance of notices to them.

7. After having heard the parties and on consideration of the materials available on the record as also after going through the impugned revisional order, this Court does not feel persuaded to interfere with the impugned revisional order dated 15.06.2006 (Annexure-8). Accordingly, both the writ petitions are dismissed. However, liberty is granted to the petitioners to approach the civil court of competent jurisdiction for grant of appropriate relief(s) with respect to the lands in question, once Notification under Section 26A of the Consolidation Act is issued by the State Government.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.08.2016
Transmission Date	