

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17771 of 2010

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Smt. Badamiya Kuer w/o Shri Sheoram Singh R/O Vill.- Sherpur, P.S. and
P.O.- Gurua, Distt.- Gaya Petitioner/s

Versus

1. The State of Bihar
2. The Director, Consolidation, Bihar, Patna
3. The Joint Director, Consolidation, Gaya
4. Ramavatar Singh S/O Late Balkishun Singh R/O Vill.- Sherpur, P.S.-
Gurua, Distt.- Gaya Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajib Ranjan Jha, Advocate
Mr. Sanjay Kumar Sinha, Advocate
For the Respondent Nos. 1 to 3 : Mr. Kamlesh Kisore, AC to GP 2
For the Respondent No.4 : Mr. Jitendra Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 28-01-2016

Heard the parties.

The petitioner is aggrieved by the order dated 17.03.2008 passed by the respondent Joint Director of Consolidation, Gaya in Case No. 6 of 2007, as contained in Annexure-1, whereby the aforesaid revision application filed on behalf of the respondent no.4 was allowed after giving an opportunity of hearing to both sides including the petitioner.

The learned counsel appearing on behalf of the petitioner submits that the aforesaid revision case was filed by the respondent no.4 straight away before the revisional authority under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short, "the Act"). By placing reliance on a judgment of a learned Single Judge of this Court in the case of **Mostt. Indrasani Kunwar @ Inarsani Kunwar Vs. The State of Bihar & others [2000(2)PLJR 83]**, it was contended that the aforesaid revision application was not maintainable since it was filed straight away under Section 35 of the Act and therefore, the impugned order as contained in

Annexure-1, is not sustainable in law.

The matter has been contested by the respondents. The learned counsel appearing on behalf of the respondents submit that the ratio laid down by the learned Single Judge of this Court in the case of **Mostt. Indrasani Kunwar @ Inarsani Kunwar Vs.The State of Bihar & others** (supra) has been overruled by a Division Bench of this Court in the case of **Ram Sundar Chaudhary & Others Vs. Ram Nath Chaduahry & others [2003 (2) PLJR 184**. According to them, the aforesaid Division Bench judgment is based on a Full Bench judgment of this Court in the case of **Seikh Haider Zan Vs. Md.Yusuf Ansari [(2000) 2 PLJR 338]**. Therefore, according to them, the submissions made by the learned counsel for the petitioner are misconceived and the writ petition is liable to be dismissed.

The present matter arises out of a consolidation proceeding regarding allotment of chak. It is well settled that in chak matters, the High Court seldom exercises the powers of judicial review under Article 226 of the Constitution of India. Admittedly, the petitioner was heard by the revisional authority before passing the impugned revisional order. The revision application under Section 35 of the Act can directly be filed before the revisional authority in view of the ratio laid down by a Division Bench judgment of this Court in the case of **Ram Sundar Chaudhary Vs. Ram Nath Chaudhary (supra)**. The present writ petition seems to be completely misconceived and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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