

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1758 of 2014

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Rameshwar Sao, S/O Late Ram Sewak Sao, Resident Of Village - Akauna,
P.S. Amas, District Gaya at Present Gola Bazar Sherghati, P.S. Sherghati,
Dist - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar, through the Chief Secretary, Bihar, Patna
2. Joint Director of Consolidation Magadh Pramandal, Gaya
3. Umesh Bhuiya, S/O Late Jhakhuri Bhuiya, Resident Of Village -
Akauna, P.S. Amas, Dist - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gauri Shankar Prasad, Adv.
For the Respondent nos.1&2 : Mr. Binit Kumar, AC to GA-7
For the Respondent no.3 : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 29-04-2016 Heard learned counsel for the petitioner and learned State counsel appearing on behalf of the respondent nos.1 and 2. However, none appears on behalf of the respondent no.3 despite valid service of notice upon him.

The petitioner is aggrieved by the order dated 31.12.2010 passed in Consolidation Revision Case No.98 of 2010 by the respondent Joint Director of Consolidation, Magadh Division, Gaya, as contained in Annexure-2 to the writ petition, whereby the aforesaid revision application filed on behalf of the petitioner under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short 'Act') has been dismissed on the ground of being barred by limitation. The petitioner is also aggrieved by the order dated 26.06.2013 passed in B.L.T. Case No.298 of 2013 by the learned Member (Judicial), Bihar Land Tribunal, Patna, as contained in Annexure-4, whereby the aforesaid case filed on behalf of the

petitioner has been dismissed on the ground of limitation.

Learned counsel appearing on behalf of the petitioner submits that while passing the impugned orders, as contained in Annexure-2 and 4, the revisional authority as also the learned Bihar Land Tribunal, Patna have not considered the case of the parties on merit, rather the aforesaid cases filed on behalf of the petitioner have been dismissed on the ground of limitation. It is contended that so far Section 35 of the Act is concerned, no period of limitation has been prescribed; therefore, the revisional order, as contained in Annexure-2, cannot be sustained in law.

Learned State counsel appearing on behalf of the respondent nos.1 and 2 though has opposed the prayer on merit, but has fairly conceded that no period of limitation has been prescribed under Section 35 of the Act.

After having heard the learned counsel for the parties and on plain examination of Section 35 of the Act, this Court is of the opinion that the impugned revisional order dated 31.12.2010 passed in Consolidation Revision Case No.98 of 2010 by the respondent Joint Director of Consolidation, Magadh Division, Gaya, as contained in Annexure-2 to the writ petition, cannot be sustained in law as under Section 35 of the Act no period of limitation has been prescribed. Therefore, the revisional authority, while dismissing the revision application filed on behalf of the petitioner, has committed an error of law. The learned Bihar Land Tribunal, Patna has apparently not considered the case of the parties on merit including the fact that revisional order was patently contrary to the provisions of Section 35 of the Act.

In the aforesaid facts and circumstances, this Court is of the opinion that this matter requires re-consideration and fresh



decisions by the Director of Consolidation, Bihar, Patna in terms of Section 35 of the Act. Accordingly, the impugned order dated 31.12.2010 passed in Consolidation Revision Case No.98 of 2010 by the respondent Joint Director of Consolidation, Magadh Division, Gaya, as contained in Annexure-2 to the writ petition, as also the impugned order dated 26.6.2013 passed in B.L.T. Case No.298 of 2013 by the learned Member (Judicial), Bihar Land Tribunal, Patna, as contained in Annexure-4, are hereby set aside and quashed, and the matter is remitted back to the Director of Consolidation, Bihar, Patna with a direction to decide the Consolidation Revision Case No.98 of 2010 filed on behalf of the petitioner afresh strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned including the private respondent no.3.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law before the Director of Consolidation, Bihar, Patna with respect to the lands in question, which may be available to them.

The writ petition stands allowed to the extent indicated, but with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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