

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24894 of 2013

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1. Rudal Singh S/O Late Agni Prasad Singh Resident Of Village Tajpur Kharika, Police Station Bidupur, District- Vaishali At Hajipur.
 2. Amrendra Singh S/O Jagdeep Singh Resident Of Village Tajpur Kharika, Police Station Bidupur, District- Vaishali At Hajipur.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Director Consolidation Bihar, Patna.
2. The Collector, Vaishali At Hazipur, Bihar.
3. The Director Consolidation Directorate Budh Marg, Patna- 1
4. The Deputy Director Consolidation, Vaishali, Hazipur, Bihar.
5. The Settlement Officer, Muzaffarpur, Bihar
6. The Circle Officer, Bidupur Block, District- Vaishali, Hazipur, Bihar.
7. The Bihar Land Tribunal, Patna, Bihar.
8. Chandra Shekhar Singh S/O Late Sukhdeo Singh Resident Of Village Taghar Khorika, Police Station Bidupur, District- Vaishali At Hazipur.
9. Rakesh Kumar Singh S/O Late Sukhdeo Singh Resident Of Village Taghar Khorika, Police Station Bidupur, District- Vaishali At Hazipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAVI SHANKER PANKAJ
For the Respondent/s : Mr. AVNISH NANDAN SINHA

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 17-02-2017

Heard the parties

2. The petitioners have challenged the order dated 01.07.2013 passed in B.L.T Case No.64 of 2013 as well as order dated 08.10.2013 passed in B.L.T. Case No. 08 of 2013 by the Bihar Land Tribunal, Patna.

3. The respondent nos. 8 and 9 had challenged the order dated 07.04.2011 and 29.05.2012 passed by the Director



Consolidation, Patna (Respondent No.3) before the Bihar Land Tribunal, Patna (Respondent No.7) by filing B.L.T. Case No. 64 of 2013. The aforesaid B.L.T. Case No.64 of 2013 was disposed of by the Bihar Land Tribunal, Patna (Respondent No.7) on 01.07.2013, which is evident from perusal of Annexure-8 to the writ petition. The petitioners filed review petition before the Tribunal for review of order dated 01.07.2013 but the review petition was dismissed by the Tribunal passing impugned order dated 08.10.2013 which is evident from Annexure-9 to the writ petition.

4. Submission on behalf of the petitioners is that the petitioners were opposite party nos. 3 and 4 in B.L.T. Case No. 64 of 2013. The Case of the petitioners is that during consolidation proceeding wrong entry was made by consolidation authority in respect of R.S.P plot no. 1217 which was challenged by the petitioners before Dy.D.C.Hajipur who got registered Miscellaneous Case No. 466 of 1995 and disposed of the said Miscellaneous Case No. 466 of 1995 vide order dated 30.01.1996, which is evident from Annexure-6 to the writ petition. However, after laps of near about 12 years respondent nos. 8 and 9 filed revision under section 35 of the Act before Director Consolidation, Patna who disposed off the revision on the ground that the concerned village had already denotified. Thereafter respondent nos. 8 and 9 approached the Bihar



Land Tribunal, Patna by filing B.L.T Case No. 64 of 2013, which was disposed off vide impugned order dated 01.07.2013. Further submission is that the petitioners were not heard by the Land Tribunal at the time of passing the order dated 01.07.2013 in B.L.T. Case No.64 of 2013. It is further submitted that petitioners had filed their counter affidavit but the Land Tribunal failed to take note of the counter affidavit filed on behalf of the petitioners and mentioned in the impugned order that no counter affidavit had been filed on behalf of the opposite party no. 4. It is also submitted on behalf of the petitioners that, as a matter of fact, the Land Tribunal did not take note of the points raised by the petitioners in their counter affidavit and, therefore, this matter may be remitted back to the Land Tribunal for fresh hearing, giving opportunity of being heard to the petitioners.

5. Learned counsel appearing for the respondent nos. 8 and 9 submits that, as a matter of fact, the Deputy Director Consolidation, Vaishali, Hazipur (Respondent No.4) after de-notification of consolidation proceedings under Section 26A of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 made correction in the revenue record though the Deputy Director of Consolidation, Vaishali, Hazipur (Respondent No.4) had no right to do so after de-notification of consolidation proceedings and, therefore, even if the matter is remitted back to the Bihar Land



Tribunal, no purpose would be solved.

6. It is an admitted case that neither petitioners nor respondent nos. 8 and 9 were heard by the Land Tribunal as both failed to appear before the Land Tribunal at the time of passing the order dated 01.07.2013 in B.L.T. Case No.64 of 2013. Moreover, it is evident from perusal of the impugned order dated 01.07.2013 that the learned Land Tribunal has, specifically, mentioned in the impugned order that counter affidavit had not been filed on behalf of the petitioners but it has specifically, been pleaded by the petitioners before this court on oath that counter affidavit had already been filed on their behalf in aforesaid B.L.T. Case No. 64 of 2013, which is evident from Annexure-10 to the supplementary affidavit. Therefore, the aforesaid fact clearly goes to show that the case of the petitioners was not taken into consideration at the time of passing the impugned order dated 01.07.2013 in B.L.T. Case No.64 of 2013 and in my view, it is against the principles of natural justice. Hence, the order dated 01.07.2013 passed by Bihar Land Tribunal, Patna (Respondent No.7) in B.L.T. Case No. 64 of 2013 as well as order dated 08.10.2013 passed in B.L.T. Case No. 08 of 2013 by the Bihar Land Tribunal, Patna (Respondent No.7) by which the review petition filed by the petitioners against the order dated 01.07.2013 was rejected, are quashed and the Bihar Land Tribunal, Patna (Respondent No.7) is



directed to rehear the B.L.T. Case No. 64 of 2013 afresh and pass a fresh order, giving opportunity of being heard to both the parties of the aforesaid case and to dispose of the same within three months from the date of receipt/ production of a copy of this order.

7. With the aforesaid observations, this writ petition stands disposed of.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.03.2017
Transmission Date	09.03.2017

