

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6043 of 2001

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1. Kailash Yadav, son of Late Ram Krishna Yadav and husband of Late Ambika Devi
 2. Kumar Raghubansh, son of Kailash Yadav
 3. Pappu Kumar
 4. Yadubansh Kumar
 5. Haribansh Kumar

Petitioner Nos. 3 to 5 are minor sons of Late Ambika Devi and Kailash Yadav through his father and natural guardian and the next friend Kailash Yadav, Resident of Village- Sahpur, P.O.- Murli Basantpur, P.S. & District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Joint Director, Consolidation, Purnea
3. The Joint Director, Consolidation, Saharsa.
- 4(a). Bishundeo Yadav, son of late Ram Prasad Yadav
- 4(b). Anita Devi, wife of Melhi Lal Yadav, resident of Village- Matahi, P.O.- Matahi, P.S. & District- Madhepura
- 4(c). Most. Prabha Devi, wife of Late Arvind Prasad Yadav, resident of Village- Balha, P.O.- Radiha, P.S. Bangoan, District- Saharsa.
- 5(a).Surya Narayan Yadav, son of late Sheo Prasad Yadav
- 5(b). Chandrika Devi, wife of Kamleshwari Yadav, resident of Village- Bhaura, P.S.- Simri Bakhtiarapur, District-Saharsa,
- 5(c). Rekha Devi, wife of Shailendra Prasad Yadav, resident of Village- Nandlali, P.O.- Bihra, District- Saharsa
- 5(d). America Devi, wife of Sadanand Yadav, resident of Village- Goriari, P.S. Sulkhua, District- Madhepura.
- 6(a).Sita Ram Yadav, husband of Kusimi Devi,
- 6(b). Pawan Yadav, son of Sita Ram Yadav
- 6(c). Usha Devi, wife of Dinesh Yadav, Resident of Village & P.O.- Bariahi, P.S. Bangoan, District- Saharsa
- 6(d). Meera Devi, wife of Pappu Yadav, Resident of Village & P.O.- Kalhai Patti, P.S.- Murliganj, District- Madhepura.
- 7(a).Satyendra Yadav, son of late Mahabir Mandal
- 7(b). Shailendra Yadav, son of late Mahabir Mandal
- 7(c). Manoj Yadav, son of late Mahabir Mandal
- 7(d). Most. Bachha Devi, wife of Late Ashok Yadav
- 7(e). Alok Kumar, grand son of late Mahabir Mandal
- 7(f). Priyanka, grand daughter of late Mahabir Mandal
- 7(g). Soni, granddaughter of late Mahabir Mandal
8. The Deputy Director, Consolidation, Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinod Shankar Modi, Advocate
For the Respondent/s :



**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 09-02-2017**

The challenge in the present writ application is to an order passed by Deputy Director, Consolidation, Purnea on 9th of July, 1997 in Revision Case No. 1268 of 1990/56 of 1997 whereby, an order passed by the Deputy Director, Consolidation, Saharsa on 22nd of June, 1990 in Appeal No. 116/87 was set aside.

2. The sole argument raised by the learned counsel for the petitioners is that after the decision in appeal by the Deputy Director, Consolidation on 22nd of June, 1990, only a revision is maintainable and that too before the Director, Consolidation in terms of Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as “the Act”) whereas, the revisional jurisdiction has been exercised by another Deputy Director, Consolidation who is an officer of the same rank and, thus, could not exercise the revisional jurisdiction.

3. We find merit in the argument raised.

4. A perusal of the record shows that the Deputy Director, Consolidation allowed an appeal filed by the present petitioners on 22nd of June, 1990 but against the said order, a revision was filed under Section 35 of the Act which was entertained by the



Deputy Director, Consolidation again. Once the order has been passed by the Deputy Director, Consolidation, an officer of the same rank could not exercise the revisional jurisdiction as the revisional jurisdiction has to be exercised by an authority higher in rank than the officer passing the order in appeal.

5. In view of the said fact, we set aside the order dated 9th of July, 1997 passed by the Deputy Director, Consolidation, Purnea and remit the matter to the Director, Consolidation who shall decide the revision under Section 35 of the Act on merits in accordance with law.

6. The writ application stands allowed accordingly.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	14.02.2017
Transmission Date	

