

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17242 of 2009**

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Dinanath Mishra & Ors

.... .... Petitioner/s

Versus

The State of Bihar & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Uma Shankar Singh 2  
Mr. Krishna Prasad Singh 2

For the Respondent/s : Mr. (Sc23)  
Mr. Girijanand Prasad

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
**ORAL ORDER**

11    12-07-2017                      Heard learned counsel for the petitioners and learned  
counsel for the State as well as learned counsel for the private  
respondents.

The petitioners have challenged the order dated  
22.02.2002 passed in Consolidation Appeal No. 01 of 2001-02 by  
the Assistant Director, Consolidation, Bhojpur Ara (Respondent  
No.4), as contained in Annexure-3 to the petition, and the order  
dated 10.03.2008 passed in Consolidation Revision No. 43 of  
2002 by the Director, Consolidation, Bihar, Patna, as contained in  
Annexure-5 to the petition.

The dispute of the parties has chequered history. It is  
suffice to say that the dispute of the parties was remitted back by  
this Court vide order dated 25.09.2001 passed in CWJC No. 484



of 2000 giving liberty to the petitioner to knock the door of the appellate authority. After that, the learned Assistant Director, Consolidation , Bhojpur, Ara (Respondent No.4) passed the impugned order dated 22.02.2002 in Consolidation Appeal No. 01/ 2001-02, dismissing the aforesaid Consolidation Appeal filed on behalf of the petitioners. Thereafter, the petitioners filed Consolidation Revision No.43 of 2002 but the same was also dismissed by the Director, Consolidation, Bihar, Patna (Respondent No.2) passing the impugned order dated 10.03.2008.

Learned counsel appearing for the petitioners submits that Consolidation Officer, Bhrampur, Bhojpur, Ara, passed the order dated 20.01.1996 in Consolidation Case No. 01/95-96 and the aforesaid order was directly challenged in revision before Deputy Director Consolidation without availing the statutory remedy and lastly this Court granted liberty to parties to knock the door of appellate court and, thereafter, the matter came before the appellate court and the aforesaid order was challenged before the Appellate Court in Appeal No. 01/ 2001-02 but in the meantime, the Consolidation Officer, who had passed the order dated 20.01.1996 in Consolidation Case No. 01/95-96, had become the appellate authority and in the capacity of Assistant Director Consolidation, passed order in appeal no. 01/2001-2002 which had



been filed against the order which had been passed by the same officer while he was exercising the power of Consolidation Officer.

Learned counsel appearing for the private respondents submits that parties are fighting since long and it is well known fact that the consolidation court has no right to decide right and title of the parties and, therefore, this writ petition may be disposed of giving direction to the petitioners to seek relief before the competent court.

Learned counsel appearing for the State also seconded the above stated submission of learned counsel for the private respondents but he fairly conceded that the order dated 22.01.1996 passed in Consolidation Case No. 01/ 1995-96 as well as order dated 22.02.2002 passed in Appeal No. 01/ 2001-02 have been passed by the same person though in different capacity.

Since it is an admitted position that order dated 22.02.2002 as well as order dated 22.01.1996 have been passed by same person, in my view, the order dated 22.02.2002 passed in Appeal No. 01/ 2001-02 as well as order dated 10.03.2008 passed in Consolidation Revision No. 43 of 2002 cannot be sustained in the eye of law because the order dated 22.02.2002 passed in Consolidation Appeal No. 01/2001-2002 is against the principles



of natural justice and jurisprudence.

Therefore, I have no option except to set aside the order dated 22.02.2002 passed in Appeal No. 01/ 2001-02 as well as the order dated 10.03.2008 passed in Consolidation Revision no. 43 of 2002 and, accordingly, the aforesaid impugned orders are quashed and the matter is remitted back to the Assistant Director, Consolidation, Bhojpur, Ara, with direction that the Consolidation Appeal No. 01/ 2001-02 shall be heard afresh within four months from the date of receipt/ production of a copy of this order by any other Assistant Director, Consolidation and not by that person who had passed the order dated 31.12.87 in Consolidation Case no. 48/87-88 being Consolidation Officer, Bramhapur.

Both the parties are directed to appear before the Court of Assistance Director Consolidation, Bhojpur, Ara, on 10.08.2017.

**(Hemant Kumar Srivastava, J)**

N.K/-

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