

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13687 of 2008

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Md. Manzoor Hasan, son of Late Md. Idris, resident of village-Tara Baghari, P.S.
Roonisaidpur, District-Sitamarhi.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Joint Director of Consolidation, Muzaffarpur.
3. The Deputy Director of Consolidation, Sitamarhi.
4. The Consolidation Officer, Tara, Roonisaidpur (P.S.), District-Sitamarhi.
5. The Juma Masjid, at and village-Tara Baghari, District-Sitamarhi.
6. Md. Ali Husan, son of Late Badrul Hasan, P.S./Anchal-Roonisaidpur, District-Sitamarhi.

.... Respondents.

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Appearance :

For the Petitioner : M/s. Md.Anis Akhtar & Mr. Arif Siddiqui,
Advocates.

For the Respondent Nos.1 to 4: Mr. (GP18)

For the Respondent No.6 : None.

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

ORAL JUDGMENT

Date: 31-01-2017

Heard learned counsel for the petitioner as well as learned
counsel appearing for the State-respondent nos. 1 to 4. No one appears
on behalf of the private respondent no. 6 though the notice was validly
served upon him.

2. Petitioner has challenged the order dated 20.11.2007
passed in Consolidation Revision Case No. 4 of 1997 by the Joint
Director of Consolidation, Muzaffarpur, and also the order dated
29.11.1996 passed in Appeal No.274 of 1991 by the Deputy Director
of Consolidation, Sitamarhi. The petitioner has sought other reliefs



also in this writ application.

3. The order dated 20.11.2007 passed by the Joint Director of Consolidation, Muzaffarpur, goes to show that petitioner had challenged the order dated 29.11.1996 passed by the Deputy Director of Consolidation, Sitamarhi, but the joint Director of Consolidation, Muzaffarpur, dismissed the aforesaid revision petition of the petitioner on the ground that the consolidation court had got no jurisdiction to make declaration regarding the status of Mutwali.

4. The fact which leads to file this writ petition is that petitioner made application under section 10(4) of the Bihar Consolidation Act 1946, for correction of revenue record in respect of C.S Khata No.1163, 845, 1157 corresponding to R.S. Khata No. 3015, 3016, 3041, 1705 and 3704 with total area of 3.49 acres of village-Tara Baghari, P.S. Roonisadpur, District- Sitamarhi. The aforesaid lands were recorded in the name of respondent no. 5 and the father of respondent no. 6 was shown in revenue record as Mutwali of Jama Masjid. The petitioner sought modification of the above stated entry on the ground that the Wakf Board had declared him as Mutwali in the aforesaid Jama Masjid. The consolidation officer passed the order in favour of the petitioner and also ordered for modification of the entries in revenue records vide order dated 09.08.1991 but the aforesaid order was challenged by respondent nos. 5 and 6 in appeal



no. 274 of 1991 and the aforesaid appeal was allowed and the order of consolidation officer was set aside and the appellate court directed the consolidation officer to get the name of respondent no. 6 recorded as mutwali in relevant documents. The aforesaid order of the appellate court was challenged by the petitioner before the revisional court, who passed the impugned order dated 20.11.2007, dismissing the revision petition of the petitioner on the ground as stated above.

5. Learned counsel appearing for the petitioner submits that, as a matter of fact, in the revenue record of the Jama Masjid, the father's name of respondent no. 6 was shown as mutwali of the aforesaid Jama Masjid but, subsequently, the petitioner was appointed as Mutwali of the aforesaid Jama Masjid by the competent authorities and, accordingly, he prayed for modification in the revenue record. However, during pendency of the proceeding, the respondent no. 6 got an order from the board regarding his appointment as Mutwali but the aforesaid order was challenged by the petitioner and the said order was set aside by the competent authority. The respondent no. 6 filed CWJC No. 8823 of 1993 for setting aside the aforesaid order of the competent authority but, subsequently, he withdrew CWJC No. 8823 of 1993 with liberty to file civil suit but, up till now, civil suit has not been filed by the respondent no.6. He further submits that in the aforesaid circumstance, it is obvious that there was no dispute of



appointment of mutwali before the revisional court but the Joint Director Consolidation, Muzaffarpur, wrongly dismissed the revision petition of the petitioner mentioning this fact that there is dispute with regard to the declaration of status of Mutwali and consolidation court had got no jurisdiction to make declaration regarding the status of Mutwali.

6. No one has appeared on behalf of respondent no. 6 to controvert the aforesaid submission.

7. Learned counsel appearing for the State submits that in every districts of the State, the post of Joint Director of Consolidation is not functional and, therefore, if this matter is sent back to the revisional court, the concerned Collector may be directed to look into the matter and ensure the rehearing of Consolidation Revision Case No.4 of 1997.

8. I do agree with the submission of learned counsel of the petitioner that the issue before the consolidation court was not of declaration of status of Mutawali of Jama Masjid rather the issue was of correction of revenue record and, therefore, in my view, the Joint Director of Consolidation, Muzaffarpur, committed an error in dismissing the Consolidation Revision Case No.4 of 1997 by the impugned order dated 20.11.2007. In result, the impugned order dated 20.11.2007 passed by the Joint Director of Consolidation,



Muzaffarpur, in Consolidation Revision Case No. 4 of 1997 is set aside and matter is sent back to the Joint Director of Consolidation, Muzaffarpur, with a direction to him to rehear the Consolidation Revision Case No. 4 of 1997 afresh on its own merit and pass order in accordance with law within six months from the date of receipt/production of a copy of this order.

9. The District Magistrate, Muzaffarpur/ concerned District Magistrate shall ensure the compliance of order of this Court.

10. In the aforesaid manner, this writ petition stands disposed of.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.02.2017
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