

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12886 of 2006

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1. Hans Raj Yadav
 2. Most. Meera Devi
 3. Bishundeo Yadav @ Bishnudeo Yadav

.... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Director of Consolidation, Purnea
3. The Deputy Director of Consolidation, Saharsa
4. The Consolidation Officer, Supaul
5. Satyadeo Mahto, S/o Late Babu Lal Mahto
6. Most. Tara Devi Widow of Late Babu Lal Mahto
7. Nunu Prasad Mahto
8. Raghubar Mahto
9. Awdhesh Mahto
10. Mithilesh Mahto
11. Navlesh Mahto
12. 12 Ram Narain Mahto
13. Deo Narain Mahto, 7 to 13 all sons of Late Babu Lal Mahto

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Das

For the Respondent/s : Mr. Anirudh Pandey

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

5 18-01-2018 Heard the learned counsel for the petitioners, the learned counsel for the respondents Nos. 5 to 13. Nobody appears on behalf of the State.

The petitioners have filed this writ petition for setting aside the order dated 22.04.1998 passed in Consolidation Revision Case No. 714 of 1991/ 357 of 1997 (Annexure-3) by which the Deputy Director, Consolidation allowed the revision petition filed by Satyadeo Mahto, respondent No.5.

Mr. Chandra Bhushan Das, the learned counsel for the petitioners, submits that under Section 35 of Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the Act) the Director,



Consolidation may of his own motion or on the application of any party or on reference being made by any subordinate authority, call for and examine the record of any case decided or proceedings taken by such authority for the purpose of satisfying himself as to the regularity of the proceeding, or as to the correctness, legality or propriety of any order passed by such authority in the case or proceedings, and may after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit. The Director of Consolidation includes Additional Director and Joint Director but Deputy Director does not come within the purview of Director. According to definition of sub-clause (4) of Section 2 “Director of Consolidation” means the officer appointed as such by the State Government to exercise the powers and perform the duties of Director of Consolidation under this Act or the rules made thereunder and shall include an Additional Director of Consolidation and a Joint Director of Consolidation. It is submitted that within the definition of Director Consolidation, Deputy Director, Consolidation does not come. The learned counsel for the petitioner placed reliance on a judgement of this court in the case of ***Ram Pratap Singh v. State of Bihar reported in 2007(1) PLJR 57*** and submitted that the order of Deputy Director, as contained in Annexure-3, is without jurisdiction.

The learned counsel for the respondents Nos. 5 to 13 could not be able to show under the Act or under any circular of the Government of Bihar that Deputy Director, Consolidation is authorized to hear revision under Section 35 of the Act.

From perusal of sub-clause (4) of Section 2, it appears that definition of Director is given which means the



officer appointed as such by the State Government to exercise the powers and perform the duties of Director of Consolidation under this Act and rules made there under and shall include Additional Director of Consolidation and Joint Director of Consolidation. Section 35 of the Act gives power to the Director by suo motu or on petition presented by any party or on reference by any subordinate officer to hear revision but from perusal of the impugned order, as contained in Annexure-3, it would appear that the Deputy Director, Consolidation, Purnea entertained the revision petition filed under Section 35 of the Act and he set aside the order of the appellate authority, which is also Deputy Director, Consolidation, Saharsa as well as the order of original authority.

Therefore, I find that in view of the judgement rendered in the case of *Ram Pratap Singh v. State of Bihar (supra)* the order passed by the Deputy Director, Consolidation, Purnea is without jurisdiction. Accordingly, the order dated 22.04.1998 (Annexure-3) is set aside and the matter is remitted to the Director, Consolidation for hearing the parties afresh and pass order, in accordance with law.

This writ petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

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