

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6951 of 2019

1. Smt. Manti Kunwar @ Malti Kunwar, wife of Late Ram Kalyan Singh, Resident of Village- Kudra, P.O.- Kudra, P.S. and Anchal- Kudra, District- Kaimur (Bhabhua).
2. Smt. Mina Devi, Daughter of Late Ram Kalyan Singh, Resident of Village- Kudra, P.O.- Kudra, P.S. and Anchal- Kudra, District- Kaimur (Bhabhua).
3. Smt. Shila Devi, Daughter of Late Ram Kalyan Singh, Resident of Village- Kudra, P.O.- Kudra, P.S. and Anchal- Kudra, District- Kaimur (Bhabhua).
4. Smt. Sarita Devi, Daughter of Late Ram Kalyan Singh, Resident of Village- Kudra, P.O.- Kudra, P.S. and Anchal- Kudra, District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Consolidation Bihar, Patna.
3. The Deputy Director of Consolidation Rohtas (Sasaram).
4. The Consolidation Officer, Kudra District- Kaimur at Bhabhua.
5. Lalmuni Singh son of Late Sulendra Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
6. Hira Singh son of Late Sulendra Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
7. Sheoji Singh son of Late Sulendar Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
8. Bidya Singh son of Late Sulendra Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
9. Mahatim Singh son of Late Jay Narayan Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
10. Anirudh Singh son of Late Jay Narayan Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
11. Nand Kumar Singh son of Late Jay Narayan Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
12. Amit Kumar @ Minta Singh @ Manish Kumar Singh son of Late Jay Narayan Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.
13. Prabhawati Kuer wife of Late Haridwar Singh, Resident of Village- Kudra, P.S. and P.O.- Kaimur, District- Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manendra Kumar Sinha
For the Respondent/s	:	Mr. Subash Chandra Yadav (GP 15)
		Mr. Sangha Mitra Ghosh, AC to GP-15



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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 12-04-2019 Heard learned counsel for the parties.

An order, dated 30.11.2018, passed by the learned Chairman, Bihar Land Tribunal, in B.L.T. Case No. 1490 of 2015 and B.L.T. Case No. 1491 of 2015, is under challenge, whereby an order, dated 21.02.2012, passed by the Director Consolidation, Bihar, in Consolidation Case No. 2014 of 2010 and 2015 of 2010, has been affirmed.

By the said order, dated 21.02.2012, passed by the Director Consolidation Bihar, the orders passed by the Deputy Director Consolidation, Rohtas, in Consolidation Appeal No. 26 of 2010, dated 13.07.2010/16.07.2010, confirming the order of the Consolidation Officer, Kudra, in Original Case No. 117 of 2009-10, filed by the petitioners under Section 10(B) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 Act (in short 'the Act'), was set aside.

This is to be noted that against the said order, dated 21.02.2012, passed by the Director Consolidation, Bihar, the petitioners had earlier approached this Court by filing writ application, giving rise to C.W.J.C. No. 9383 of 2012, which was disposed of by an order, dated 22.09.2015, granting the



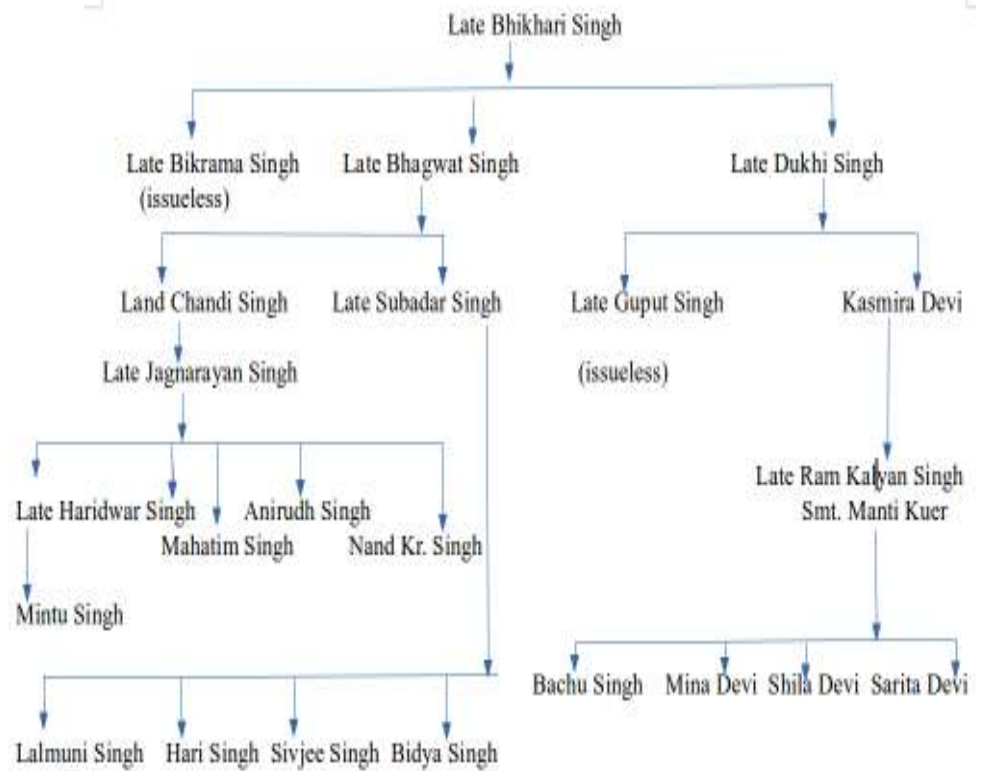
petitioners permission to withdraw the application and approach the Bihar Land Tribunal, Patna, for grant of appropriate relief.

In view of the liberty so granted by order, dated 22.09.2015, passed by this Court, the petitioners made applications before the Bihar Land Tribunal, Patna, giving rise to B.L.T. Case No. 1490 of 2015 and B.L.T. Case No. 1491 of 2015.

From perusal of the pleadings on record and the order passed by the Bihar Land Tribunal, Patna, which is impugned in the present writ application, it appears that the main dispute evolves around the year of death of one Guput Singh, brother of grandfather of the petitioners. Whereas it is the petitioners' case that Guput Singh died issueless in 1957, objection raised by the private respondents has been sustained and the Director Consolidation, Bihar, has recorded a conclusive finding that he died in the year 1920. The said finding recorded by the Director Consolidation, Bihar, has been affirmed by the Tribunal, by the impugned judgment and order.

As has been recorded in the impugned judgment and order passed by the Bihar Land Tribunal Patna, there is no dispute in respect of the genealogy, which is being reproduced herein below from paragraph 5 of the writ application:-





The Bihar Land Tribunal, after having considered the materials on record and submissions advanced on behalf of the parties, has said that the Director Consolidation, Bihar, had rightly taken into account a complaint petition filed on 21.12.1920 by Most. Suraj Baso Kuer wife of said Guput Singh and her statement was recorded on solemn affirmation on 22.01.1920, wherein she had clearly stated that her father-in-law died 2 and ½ years ago and her husband died shortly thereafter. The Director Consolidation Bihar, had also taken into account a compromise petition filed by the said Most. Suraj Baso Kuer, whereby she was allotted 7 and ½ bighas of land for her maintenance. In the said background, the Director



Consolidation, Bihar had recorded his finding that Guput Singh had died issueless in 1920 itself. The Tribunal has not found any infirmity with the said finding and has, thus, affirmed the finding recorded by the Director Consolidation, Bihar, that Guput Singh died issueless in the year 1920.

Mr. Manendra Kumar Sinha, learned counsel, appearing on behalf of the petitioners, has submitted that the concurrent finding recorded by the Consolidation Officer and the Assistant Director, Consolidation, to the effect that Guput Singh died in the year 1957, could not be said to be perverse. He contends, therefore, that the Director Consolidation, Bihar, exercising his revisional power, could not have altered the concurrent findings of fact recorded by two courts i.e. the court of Consolidation Officer and Assistant Director Consolidation. According to him, the Director could examine only the regularity of the proceeding and legality propriety of the order of the Assistant Director Consolidation and could not have re-appreciated the evidence. He has lastly submitted that in the light of Division Bench decision in case of *Maheshwar Mandal and Anr. Vs. The State of Bihar*, reported in **2018 (3) PLJR 1007**, the Consolidation court under the Act, could not have decided the title of the respective parties.



I have carefully gone through the pleadings and other materials on record as well as the impugned judgment and order passed by the Bihar Land Tribunal. I have also perused the order passed by the Director Consolidation, Bihar, which has been brought on record by way of Annexure-3 to this writ application.

In my opinion, the Bihar Land Tribunal has rightly recorded that the finding recorded by the Director Consolidation Bihar, as revisional authority is based on such materials on record, which were, though available before the Consolidation Officer and Assistant Director Consolidation, the same were overlooked by them.

The Director Consolidation, under the scheme of the Act is vested with very wide powers to ensure that sub-ordinate courts do not act arbitrarily and illegally in exercise of their jurisdiction. Power of revision under Section 35 of the Act, in my opinion cannot be said to akin to power of revision under the Civil Procedure Code. Revisional court under the Act is empowered to correct gross errors of facts, if situation so warrants.

In the present case this is not being disputed that a copy of the complaint petition dated 21.12.1920 and the



statement of Most. Suraj Baso Kuer on solemn affirmation, were not there on record before the Consolidation Officer and the Assistant Director Consolidation. In her statement on solemn affirmation recorded on 22.12.1920, Most. Suraj Baso Kuer, had said that her husband Guput Singh had died after the death of her father-in-law 2 and ½ years back. In any event, on the date of filing of the complaint petition i.e. dated 21.12.1920, her husband Guput Singh was not alive. This documentary evidence available before the Consolidation Officer, in my view, has been rightly taken by the Director Consolidation, Bihar, as clinching evidence on the point of the year of death of Guput Singh. In addition to the said documentary evidence, there was a compromise petition also available on record to reinforce the conclusion that Guput Singh had died in the year 1920.

In such view of the matter, I do not find any reason to interfere with the judgment and order of the Bihar Land Tribunal, Patna, dated 30.11.2018.

In my opinion, the case of ***Maheshwar Mandal and Anr.*** (supra) will have no application in the facts and circumstances of the case. The Consolidation Authorities under the Act are empowered to decide all disputes during the



operation of consolidation proceedings in the area notified under Section 3 of the Act.

I do not find, thus, any merit in this application.

This application is thus dismissed but without cost.

(Chakradhari Sharan Singh, J)

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