

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5739 of 2009

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RAM NAGINA TIWARY, so of Late Baban Tiwary, resident of Village-
Parsia, P.S. Bhabhua, District-Kaimur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Anchal Adhikary, Bhabhua, Kaimur
3. Director, Consolidation, Patna
4. Markande Tiwary, son of Late Satyya Narayan Tiwary, Mouja Parasice,
P.S. Bhabhua, District Kaimur
5. Aydhoya Nath Tiwary son of Shiv Prasad Tiwary, Mauja Parasia, P.S.
Bhabhua, Kaimur
6. Ramvilas Tiwary, son of Late Narayan Tiwary, Mouja Pararia, P.S.
Bhabhua, District Kaimur
7. Rama Shankar Tiwary, son of Late Ram Naresh Tiwary, Mauja Parasia, P.S.
Bhabhua, Distt. Kaimur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Mallika Mazumdar
For the State : Mr Uday Shankar Sharan Singh, GP 19

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 29-07-2019 Heard the learned counsel for the parties.

An order dated 04.02.2009, passed by the Director, Consolidation, Bihar, Patna in Consolidation Revision Case No. 158 of 1999, whereby he has dismissed the revision application filed by the petitioner against the final publication of the Chak Scheme of the concerned Mauja, has been put to challenge in the present writ application.

The revision application was filed under Section 35 of Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (for short 'the Act of 1956').



The dispute relates to RSP No.776 under RS Khata No. 182, admeasuring 0.87 decimal of the land corresponding to Chak Plot No. 686 under Chak Khata No. 186 and RSP No. 617 under RS Khata No.186, situate in Mauza Parasia, Thana No. 544, in the district of Kaimur. The disputed land, as can be noticed from the impugned order itself, corresponds to Cadastral Survey Khata No. 94, CS Plot No.641 for an area of 87 decimal of land, as well as CS Khata No.153, CS Plot No.538.

In the consolidation proceeding, under the Act of 1956, the petitioner had claimed title over the disputed land on the ground that he had received the same from the ex-landlord through settlement. He also attempted to establish his right through adverse possession.

It transpires from the impugned order of the Director, Consolidation that the petitioner had failed to file *Jamindari* return in support of his claim that he had obtained the land from the ex-landlord through settlement. The Director has recorded a finding that RSP No.617, admeasuring 0.12 decimal of land was a road. The director has further recorded in the impugned order that no *Jamabandi* was created in the name of the petitioner, immediately after vesting of *Jamindari* so as to establish his claim of his title. Referring to the recommendation of the



Village Advisory Committee, the learned Director had recorded that the land was in public use. Significantly, the petitioner was found to have not raised such objection throughout the consolidation proceeding and had maintained silence. Keeping in view the above-noted aspect, the Director, Consolidation has rejected the revision application by the impugned order dated 04.02.2009.

Ms. Mallika Mazumdar, learned counsel, appearing on behalf of the petitioner, assailing the impugned order, has submitted that the Director has committed an error of record in the impugned order while recording his finding that the *Jamindari* return was not filed for substantiating the petitioner's claim of settlement. She has drawn my attention to Annexure-1 to the writ application, which is the list of documents filed on behalf of the petitioner in the court of Director, Consolidation and referring to item no.2 thereof, she submits that the photo copy of the rent receipt granted by the ex-landlord in favour of the petitioner was submitted before the Director in the revisional proceeding, which was adequate to establish the petitioner's case that the land was settled by the ex-landlord.

I cannot accept the said submission made by Ms. Mallika Mazumdar, since in my opinion, there is no error of



record. The Director, Consolidation has referred to *Jamindari* return, which could not be filed by the petitioner to establish his claim, whereas the item no.2 of the list of documents, filed on behalf of the petitioner before the Director, refers to the rent receipts. The Director, Consolidation, as is evident from the impugned order, appears to have looked into all the documents available before him pertaining to the consolidation proceeding, including the recommendation made by the Village Advisory Committee and the silence of the petitioner during consolidation proceeding.

The impugned order, in my view, does not suffer from any legal infirmity, requiring this Court's interference in a proceeding of judicial review.

A counter affidavit has been filed, from which it appears that the area has been denotified, with the issuance of notification under Section 26A of the Act of 1956.

In view of above, this writ application is dismissed.

(Chakradhari Sharan Singh, J)

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