

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3403 of 2007

SHARDA DEVI, wife of Ram Yash Rai, and daughter of late Jagti Rai,
resident of village-Narwara Kashi Chapra, PO Tola Muja Narwara P.S.
Baruraj, District-Muzaffarpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Director of Consolidation, Muzaffarpur
3. Joint Director of Consolidation, Muzaffarpur
4. Consolidation Officer, Muzaffarpur
5. Bhullan Rai, son of late Bihari Gope
6. Chalitra Rai, son of late Nayak Rai, grand son of late Bihari Gope
No.5 and 6 resident of village-Narwara, Kashi Chapra, PO Tola Muja
Narwara, P.S. Baruraj, District Muzaffarpur. (Nos. 5 and 6 petitioner in Misc.
Case No. 13 of 2006 under Section 35 of the Consolidation Act.)

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shishir Kumar
For the Respondent/s : Mr.GA-6

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

6 09-08-2019 Heard learned counsel for the parties.

2. An order dated 30.12.2006, passed by the Joint
Director, Consolidation, Muzaffarpur in Misc. Case No. 13 of
2006 in exercise of power under Section 35 of the Bihar
Consolidation of Holdings and Prevention of Fragmentation
Act, 1956 (hereinafter referred to as 'the Act') has been put to
challenge in the present writ application. The revision
application under Section 35 of the Act was filed by the
respondents' side, questioning the correctness of entry in chak
Khata serial No.43, Khata No.33 to the extent of deletion of the



name of Jagti Rai, father of petitioner and confirming the names of Nayak Rai, father of Chalitra Rai (respondent No.6) and Bhulan Rai (respondent No.5).

3. Assailing the impugned order, learned counsel appearing on behalf of the petitioner has submitted that the Joint Director, Consolidation ought not to have entertained the application filed by the contesting respondents several decades after passing of the order by the Consolidation authorities leading to the entries in favour of the petitioner's father. He has further submitted that the Joint Director, Consolidation ought not to have entertained revision application, exercising power under Section 35 of the Act.

4. Section 35 of the Act confers wide jurisdiction of the Director of Consolidation to 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.

5. The impugned order of the Joint Director, Consolidation dated 30.12.2006, therefore, cannot be questioned on the ground of jurisdiction. So far as the delay in making the application before the revisional authority is concerned, Section



35 of the Act does not prescribe any period of limitation. The impugned order of the revisional authority cannot be interfered with merely on the ground that the party approached the revisional authority after delay. However, the delay finds some explanation, which is evident from the impugned order itself.

6. On perusal of the impugned order and consideration of the pleadings on record and submissions advanced on behalf of the parties, it is evident that the only dispute which was there before the Joint Director to decide was as to whether the petitioner was descendant of one Saudagar Gope or not. There was no dispute that the petitioner before the Joint Director, Consolidation was the descendant of Saudagar Gope. The petitioner, herein, who was respondent before the revisional authority had claimed herself to be the descendant of Saudagar Gope. Based on such claim, she had claimed half of her share in the property of Saudagar Gope. The Joint Director, Consolidation, Muzaffarpur by his impugned order dated 30.12.2006 refused to accept the plea of the petitioner of being descendant of Saudagar Gope, mainly on the basis that she could not produce any material in support of her claim. The Joint Director, Consolidation has also referred to the name of the father of the petitioner Jagti Rai in revisional survey against



Khata No.32 before reaching a conclusion that the petitioner and the contesting respondents did not have common ancestors.

7. In the background of above, I do not find any justification for this Court to interfere with the impugned order in exercise of power of judicial review under Article 226 of the Constitution of India.

8. This application has no merit and it is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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