

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22152 of 2013

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Shailesh Kumar Pandey @ Rajan Pandey, Son of Late Gaya Prasad Pandey,
Resident of Village- Patelwa P.S.- Buxar Industrial Area, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The District Magistrate, Buxar
3. The Deputy Collector Land Reform, Buxar
4. The Circle Officer, Buxar
5. The Halka Karamchari, Circle Office, Buxar
6. The Circle Inspector, Circle Office, Buxar
7. Umesh Chandra Pandey @ Lalan Pandey, Son of Late Gaya Prasad Pandey,
Resident of Village- Patelwa P.S.- Buxar Industrial Area District- Buxar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 487 of 2014

=====

Shailesh Kumar Pandey @ Rajan Pandey Son Of Late Gaya Prasad Pandey
Resident Of Village- Patelwa, P.S.- Buxar Industrial Area, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Land Reform and Revenue Department,
Government of Bihar, Patna
3. The Director, Land Consolidation, Land Reform and Revenue Department,
Government of Bihar, Patna
4. The District Magistrate/Collector, Buxar
5. The District Land Consolidation Officer, Buxar
6. The Circle Officer, Buxar
7. The Circle Inspector, Circle Office, Buxar
8. The Halka Karmachari Circle Office, Buxar
9. Umesh Chandra Pandey @ Lalan Pandey, Son of Late Gaya Prasad Pandey,
Resident of Village- Patelwa, P.S.- Buxar Industrial Area, District- Buxar

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 22152 of 2013)

For the Petitioner/s : Mr.Ranjeet Kumar, Advocate
Mr. Ayush Kumar, Advocate



For the State : Mr. Kamlesh Kishore, AC to SC-12
For private Respondent : Mr. Prasoon Sinha, Advocate
(In Civil Writ Jurisdiction Case No. 487 of 2014)
For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
Mr. Ayush Kumar, Advocate
For the State : Mr. Fakhruddin Ali Ahmad AC to AAG-12
For private Respondent : Mr. Prasoon Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 30-07-2019

Heard learned counsel for the parties.

These two matters have been listed for being heard side by side in the light of order dated 11.04.2014, passed in CWJC No. 22152 of 2013.

Before coming to the reliefs, which the petitioner is seeking in both the applications, it would be appropriate to take note of certain facts as pleaded in the writ applications. One Gaya Prasad Pandey had two wives, Keshri Devi and Rameshwari Devi. The petitioner is son of Gaya Prasad Pandey out of his marriage with Rameshwari Devi. Respondent No. 7 Umesh Chandra Pandey is son of the same Gaya Prasad Pandey out of his wedlock with Keshri Devi, the first wife. The dispute is, thus, between the two step-brothers.

C.W.J.C. No. 22152 of 2013

In CWJC No. 22152 of 2013, the petitioner has put to challenge an order dated 13.12.2010, passed by the Circle Officer, Buxar in Mutation Case No. 1296/2010-11 on an application filed by respondent no. 7. The said mutation petition was allowed



considering the assertion of respondent no. 7 that he was the only heir of late Gaya Prasad Pandey. An appeal against the order of the Circle Officer was preferred by the petitioner, which was also dismissed. He filed a revision petition before the Collector, which was pending when this writ petition was taken up on 11.04.2014. It was in this background that the petitioner filed CWJC No. 22152 of 2013 on 31.10.2013 for setting aside the order dated 13.12.2010 passed by the Circle Officer, Buxar in Mutation Case No. 1296/2010-11. The appellate order dated 19.11.2011 passed by the Deputy Collector Land Reforms in Mutation Appeal No. 21/2011-12 is also under challenge.

Considering the stand on behalf of the petitioner that the order of the Circle Officer was passed behind his back, this Court by the said order dated 11.04.2014, while issuing notice to respondent no. 7, had passed an interim order staying the effect of the impugned order dated 13.12.2010, passed in Mutation Case No. 1296/2010-11.

This is to be noted that the petitioner had filed a suit on 21.05.2013 giving rise to Title Suit No. 308 of 2013 in respect of the same disputed land appertaining to Khata No. 19, Khesra No. 17 admeasuring 1.3 and ½ acres under Mauza Dalsagar Thana No. 348. In the said suit the petitioner has sought for a declaration that



the mutation order was result of fraud which did not confer any title on respondent no. 7. The fact that the petitioner had filed a title suit was not disclosed to this Court when the interim order came to be passed on 11.04.2014 in CWJC No. 22152 of 2013 in which also the same order of mutation was under challenge, on the grounds, *inter alia*, that the same was obtained by fraud.

In my opinion, non-disclosure of filing of a suit in respect of same dispute relating to mutation is apparently intentional and amounts to concealment of material facts.

C.W.J.C. No. 22152 of 2013 is accordingly dismissed considering the conduct of the petitioner.

The interim order of stay stands vacated.

C.W.J.C. No. 487 of 2014

In CWJC No. 487 of 2014, the petitioner has put to challenge the order dated 21.02.2011, passed by the Land Consolidation Officer, Buxar in Consolidation Case No. 2361 of 2010-11 whereby name of private respondent no. 9 has been directed to be entered in the consolidation register in place of Late Gaya Prasad Pandey. The petitioner had filed a review application against the said order dated 21.02.2011 before the Land Consolidation Officer, Buxar which has been dismissed by an order dated 26.08.2011 on the ground of lack of jurisdiction of the



Consolidation Officer to entertain the review application. The said order dated 26.08.2011, passed in Consolidation Case No. 02 of 2011-12 has also been challenged in this case.

At the very outset, I must indicate that the order of the Consolidation Officer dated 26.08.2011 rejecting the petitioner's application for review cannot be faulted with, there being no statutory provision conferring power of review on the Consolidation Officer under Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as 'the Act').

Coming to the impugned order dated 21.02.2011, which has been evidently passed under Section 10-B of the Act, it can be easily noticed that this writ application has been filed nearly three years after passing of the said order. Secondly, the writ petition has been filed directly to this Court under Article 226 of the Constitution without availing alternative statutory remedy available under the Act, which is a self contained code. Apart from other provisions under the Act for disposal of objections, Section 35 of the Act confers upon the Director, Consolidation supervisory jurisdiction to call for and examine the records of any case decided or proceedings taken by any authority under the Act.



For the reasons aforesaid, I am not inclined to entertain this writ application. The petitioner shall, however, be at liberty to invoke Section 35 of the Act, if the same is available to him.

This writ application is also dismissed, but with observation as noted above.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.09.2019
Transmission Date	NA

