

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3146 of 2009

-
1. Ashok Kumar Singh, son of Late Jagarnath Prasad Singh, resident of village- Chataro Chaturbhuj, P.S.- Lalganji, District- Vaishali, Presently residing at village- Basantpur Basant @ Subhai, P.S.- Hajipur Sadar, District- Vaishali
 2. Narhari Vishnu Datatatreya, son of Janardan Prasad Singh, resident of village- Ghataro Chaturbhuj, P.S. and Anchal- Lalganji, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director of Consolidation, Bihar, Patna
3. The Deputy Director of Consolidation, Vaishali at Hajipur
4. The Consolidation Officer, Anchal- Lalganji, District- Vaishali
5. Ruprekha Devi wife of Late Prashant Kumar Singh,
6. Dharmendra Kumar Prashant Singh @ Manoj Kumar Singh
7. Ravindra Kumar Singh @ Raghvendra Kumar Singh @ Lal Babu Singh 5(ii) to 5(iii) are all sons of Late Prashant Kumar Singh resident of village- Ghataro Chaturbhuj, P.S. and Anchal- Lalganji, District- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.N.P.Singh with Mr. Naresh Nandan
For the intervener	:	Mr. Sidhendra Narayan Singh
For Respondent No.5	:	Mr. A.N.Verma Mr. Rakesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

9 03-01-2019 Heard learned counsel appearing on behalf of the petitioners, learned Counsel representing the contesting Respondent No.5 and learned counsel appearing on behalf of the State.

2. One application for intervention has been filed vide I.A. No. 2523 of 2011.

3. In view of the nature of the order, which I intend to pass I am not required to pass any specific order on the



application for intervention.

4. Learned counsel appearing on behalf of the petitioners and Respondent No.5 have opposed the prayer for intervention.

5. This writ application has been filed seeking quashing of the order dated 12.01.2009 by the Director of Consolidation, whereby he has dismissed the revision application filed by the petitioners. The revision application was preferred against the order dated 06.08.1996, passed by the Deputy Director of Consolidation, Vaishali at Hazipur which was an *ex parte* order, whereby the Deputy Director of Consolidation had ordered for recording the land in dispute in the name of contesting respondent No.5, after cancellation of name of father of petitioner No.1 in the revisional khatian.

6. Learned counsel appearing on behalf of the petitioners has at the very outset drawn my attention to the order passed by the Deputy Director dated 06.08.1996, in order to submit that the said *ex parte* order has been passed without noticing the petitioners, which is evident from the impugned order itself. It has secondly been submitted that the power of the Deputy Director to pass such order by registering miscellaneous case application filed by a land holder is not traceable under the



scheme of the Act. In support of the stand that there was absolutely no notice given to the petitioners before passing the order by the Deputy Director, learned counsel for the petitioners has referred to order dated 06.08.1996 itself, which does not show that any effort was made to notice the respondent of the said Miscellaneous Case No. 102 of 1996. In addition, there is specific averment made in paragraph 13 of the writ application which reads thus:-

“13. That Ashok Kumar Singh was made party in the case, no notice at any stage was served and hence a case was decided ex parte. The lands of petitioner No.2 were included in the case, but he was not made party, similarly Plot No. 3829, which is a Rasta was also included, but the State of Bihar was not made party.”

7. A counter affidavit has been filed on behalf of the contesting respondent No.5 in which the specific averment that the petitioners were not noticed has not been denied. On perusal of the order of the Deputy Director, I have no hesitation in reaching a definite conclusion that it has adverse civil consequence. In such circumstance, without giving the persons going to be adversely affected and opportunity of hearing, no order could have been passed.



8. The order of the Deputy Director dated 06.08.1996 was, thus, apparently unsustainable and illegal. The revisional authority ought to have taken this aspect into the account while disposing of the revision case by the impugned order dated 12.01.2009.

9. In view of the above, both the orders, that is, the order dated 06.08.1996, passed by the Deputy Director, Consolidation in Misc. Case No. 102 of 1996 and the order dated 12.01.2009, passed by the Director Consolidation in Civil Revision No. 43 of 2007 and 123 of 2007 are hereby, quashed.

10. This application is allowed.

11. The party shall be at liberty to pursue their respective claims before appropriate forum, in accordance with law or appropriate Court of civil jurisdiction as may be permissible to them.

12. I.A. No. 2523 of 2011 stands disposed of.

(Chakradhari Sharan Singh, J)

arun/-

U			
---	--	--	--

