

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15827 of 2008

1. Ramadhar Singh
2. Dhruv Prasad Singh, Both sons of Late Maharaj Singh
3. Vijai Kumar Singh son of Late Jairam Singh.
4. Sheo Shankar Singh, son of Late Chandrapal Singh.
5. Bindu Devi, wife of Ranjeet Singh, All residents of Village- Kasap, P.S.-
Udwant Nagar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Director of Consolidation, Bihar, Patna.
3. Ashok Prakash Singh, son of Satyendra Prasad Singh, resident of Village-
Kasap, P.S.- Udwantnagar, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uma Kant Srivastav
For the State : Mr Gyan Shankar, AC to GP 2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 08-03-2019 This writ application has been filed, seeking quashing of an order dated 05.05.2008, passed in Consolidation Revision Case No. 159 of 2007 by the Director of Consolidation, Bihar, in purported exercise of power under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as 'the Act').

Following is the order, which is impugned in this writ application:-

“Heard the learned lawyer on behalf of



the petitioner ex-parte and perused the material on record. The law point raised by the petitioner is that OP No.1 executed the impugned said deeds without taking prior permission of the competent authority u/s 5 of the Consolidation Act. If the documents were executed in contravention of the Act, the same will be void documents u/s 32 of the Consolidation Act. The rulings of the Hon'ble Patna High Court as reported in 1985 PLJR 965 and 1979 BLJR 132 have been cited in this content the Ops have not been able to present their case. Hence the case was fixed for an heard ex-parte.

In view of the uncontroverted fact that the impugned sale deeds did not carry prior permission of the competent authority, the same are declared void.

The revision petition is allowed.”

The point which has been taken on behalf of the petitioners is that it was beyond the jurisdiction of the Director of Consolidation to have entertained any application directly for declaring any sale deed illegal, on the ground of the same being in breach of Section 5 of the Act. Section 5 of the Act requires prior permission for transfer of a land through various modes during the operation of the consolidation. My attention has been



drawn to the decision of this Court dated 03.01.2019, passed in CWJC No. 14679 of 2008, whereby dealing with section 35 of the Act, it has been held in paragraph 6 as follows:-

“6. The above noted provision clearly states that the Director of Consolidation may on his own or on the application of any party or on reference being made by any subordinate authority, call for and examine the records 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 in the case or proceedings.”

It is evident from the clear language of Section 35 of the Act that the Director of Consolidation has the authority to call for and examine the records of ‘any case decided or proceedings taken’ on his own motion or on the application of any party or on reference being made by any subordinate 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.

It is evident from the impugned order that the Director



of Consolidation has directly entertained an application for setting aside the sale deed. The said order, in my view, cannot be sustained and deserves to be set aside.

This writ application is allowed accordingly. The order dated 05.05.2008, passed by the Director of Consolidation, in Revision Case No. 159 of 2007 is hereby quashed.

It will, however, be open to the private respondent to question the correctness of the sale deed in accordance with law.

(Chakradhari Sharan Singh, J)

HR/-

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