

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16057 of 2019

1. Lalita Devi Wife of Ram Dayal Singh. resident of Village- Bhaluhi, Police Station- Mohaniya, District- Kaimur.
2. Asmira Devi Wife of Bans Narayan Singh, resident of Village- Bhaluhi, Police Station- Mohaniya, District- Kaimur.
3. Umrawati Devi Wife of Daya Shankar Singh, resident of Village- Bhaluhi, Police Station- Mohaniya, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue of Land Reforms, Govt. of Bihar, Patna.
2. Director Consolidation, Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. Consolidation Officer, Mohania, District- Kaimur at Bhabua.
5. Ram Awadhesh Singh, Son of Saheb Singh, Resident of Village- Alipur, Post- Darwan, Police Station- Ramgarh, District- Kaimur.
6. Most. Lahasi Kuer Wife of Late Bhimal Singh @ Bhomal Singh, resident of Village- Bhaluhi, Police Station- Mohaniya, District- Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar Singh
For the Respondent/s	:	Mr.Rishi Raj Sinha (SC-19)
		Mr. Akhilesh Kr. Sinha, AC to SC 19

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 06-08-2019 An order of the Collector, Kaimur (Bhabua)

dated 04.06.2019, passed in Misc. Case No. 90 of 2016,

in exercise of power under Section 32 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (for short ‘the Act’), is under challenge.

Section 32 of the Act reads thus:-

“32. Transfer of lands
prohibited.- The transfer of any



land or fragment contrary to the provisions of this Act shall be void; and the owner of any land, so transferred shall be liable to pay such fine, not exceeding two hundred and fifty rupees, as the Collector of the district may, subject to the general orders of the State Government, direct.”

There is no dispute over the fact that the gift deed was executed on 27.09.2016, when the area, in question, was under the consolidation proceeding, upon issuance of requisite notification under the Act. The gift deed was executed without prior permission of the Consolidation Officer, which is also not in dispute.

Mr. J.P. Singh, learned counsel for the petitioners, assailing the impugned order of the Collector, has submitted that albeit the Collector has jurisdiction to impose fine, exercising power under Section 32 of the Act, he does not have the jurisdiction to declare a gift deed void on the ground that the same was executed without requisite permission from the Consolidation Officer. He has also submitted that a title suit is pending in the civil court for a declaration that the gift deed is



void.

I am unable to accept the above-noted submission made on behalf of the petitioners that the Collector does not have the jurisdiction to declare a gift deed void under Section 32 of the Act, if the same is without statutory permission. Section 32 of the Act confers upon the Collector a power to impose fine, if transfer of any land or fragment is found to be contrary to the provisions of the Act. The question of imposition of fine under Section 32 of the Act will arise only, if in the opinion of the Collector, the transfer of the land is contrary to the provisions of the Act. Section 32 further declares that transfer of any land contrary to the provisions of the Act shall be void. As a natural corollary, if a Collector reaches a conclusion for the purpose of imposition of fine under Section 32 of the Act, the conclusion must precede a finding that the transfer of land itself was contrary to the provisions of the Act and, therefore, void.

Pendency of the suit in respect of the same gift deed cannot be, in my opinion, a ground to interfere with the impugned order.



I do not find any such legal infirmity in the
impugned order of the Collector as to require this Court's
interference.

This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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