

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1096 of 2017

1. Vijay Shankar Singh Son of late Sangram Singh
2. Amir Singh
3. Lalita Singh
4. Kalika Singh SI No. 2 to 4 are sons of late Mygar Singh
All are resident of Village- Chhebari, P.S.- Ramgarh, District- Kaimur Bhabhua.

... .. Petitioners

Versus

1. The State of Bihar
2. The Chairman, Bihar Land Tribunal, Patna.
3. The Director of Consolidation, Bihar, Patna.
4. The Assistant Director of Consolidation, Rohtas, Sasaram.
5. The Consolidation Officer, Ramgarh Anchal, District- Kaimur Bhabhua.
6. Madan Pandey
7. Prem Nath Pandey
SI No. 6 and 7 are Sons of late Ram Niwas Pandey
8. Akhileshwar Narayan Pandey @ Akhileshwar Pandey
9. Pradip Kumar Pandey
10. Sri Kant Pandey
SI No. 8 to 10 are sons of late Rajeshwar Pandey
11. Brijraj Pandey
12. Chandrabhushan Pandey
13. Ghanshyam Pandey
14. Kanhaiya Pandey
SI No. 11 to 14 are Sons of late Dinanath Pandey
15. Parmeshwar Bind.
16. Kameshwar Bind SI No. 15 and 16 are sons of alte Gayawan Bind.
17. Basgit Bind
18. Chhangur Bind
19. Bhalal Bind@Bajaj Bind
SI No. 17 to 19 are Sons of late Sheo Mangal Bind
SI No. 6 to 19 are residents of Village- Chhebari, P.S. - Ramgarh, District- Kaimur Bhabhua.

... .. Respondents

Appearance :

For the Petitioners : Mr. Ram Vinay Prasad Singh, Advocate
Mr. Arun Kumar, Advocate



For the Respondent State: Mr. Md. Khurshid Alam, AAG-12
For the Pvt. Respondents : Mr. Arun Kumar Lall, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 17-06-2019

An order, dated 28.09.2016, passed by learned Chairman, Bihar Land Tribunal, Patna, in B.L.T. Case No. 549 of 2015, has been assailed in the present writ application, whereby an order passed by the Director, Consolidation, Bihar, in Consolidation Revision Case No. 160 of 2001 has been set aside and the order of the appellate authority has been restored with a liberty to the parties to get their titles decided by filing a title suit before a Civil Court.

Before I refer to the dispute in question, I must notice certain basic facts, which go to the root of the matter. One Raghunath Singh had three sons, namely, Ram Badan Singh, Jagardeo Singh and Raj Kumar Singh. Ram Badan Singh had one son Mygar Singh. Jagardeo Singh had one son Ugrah Singh and Raj Kumar Singh had two sons Amar Singh and Laldhari Singh. Petitioner Nos. 2 to 4 are sons of Mygar Singh. Petitioner No.1, Vijay Shankar Singh, is son of Late Sangram Singh, the eldest son of Mygar Singh. Jagardeo Singh died leaving behind his widow Most. Lakhna Kuer and his son Ugrah Singh. Ugrah Singh is said



to have died in 1958. The dispute revolves around the point as to whether Ugrah Singh had died unmarried or had left behind him, his widow Ranbaso Kuer. It is the case of the petitioners that Ranbasi Kuer was not the widow of Ugrah Singh, rather she was set up by others for illegal acquisition of the properties held by Ugrah Singh. According to the petitioners, after death of Ugrah Singh, Most Lakhna Kuer, his mother, inherited his immovable properties in respect of which she executed a gift deed on 30.11.1959 in favour of Amar Singh and Laldhari Singh (sons of Raj Kumar Singh) and Mygar Singh (son of Ram Badan Singh), which was accepted by them and they came in possession over the lands so donated. On the other hand, claiming to be the widow of Ugrah Singh, Ranbaso Kuer executed several sale deeds in favour of the contesting respondents, claiming herself to be the sole heir of Ugrah Singh. A title suit was filed by the petitioners, challenging the validity of the sale deeds, which was dismissed, but the appeal, preferred by these petitioners, being Title Appeal No. 201 of 1971/36 of 1974, was allowed in favour of the petitioners by a judgment and decree dated 16.06.1975, though the petitioners were already in possession over the land from before. A Second Appeal was filed before this Court, giving rise to Second Appeal No. 481 of 1975, which stood abated by operation of



Section 4(c) of the Act by an order dated 01.10.1980. After the second appeal stood abated, the contesting respondents, i.e., the vendees of Ranbaso Kuer, approached the Consolidation Officer, Ramgarh, for entering their names in respect of the lands in question, which request was rejected by an order dated 04.06.1993. An appeal, preferred against the order of the Consolidation Officer, however, was allowed by the Assistant Director of Consolidation vide his order dated 28.11.2011. Revision petition filed against the order of the Assistant Director of Consolidation by the petitioners, giving rise to Revision Case No. 160 of 2001, was allowed on 25.05.2009 in favour of the petitioner. A writ application was thereafter filed giving rise to C.W.J.C. No. 12808 of 2009, which was transferred to the Bihar Land Tribunal by an order of this Court, dated 05.05.2015, invoking the *proviso* to Section 15 of the Bihar Land Tribunal Act. The Bihar Land Tribunal has, by the impugned order, dated 28.09.2016, reversed the order of the Director, Consolidation, and has affirmed the order of the Assistant Director of Consolidation passed in appellate jurisdiction.

It is evident from the impugned order that the order passed by the revisional authority, which was under challenge before the Tribunal, was an order *ex-parte*. It is noteworthy that



the revision case before the Director was filed on 29.12.2001 and after notices having been issued, the respondents had appeared on 10.12.2003 through vakalatnama. The Consolidation proceeding remained standstill, till 21.02.2007 and after revival of the consolidation proceeding on 21.02.2007, no notice was sent to the respondents fixing date for hearing of the revision petition. The case was heard *ex-parte* on 06.03.2009 and adjourned four times thereafter to 18.03.2009, 27.03.2009, 07.04.2009 and 13.04.2009. Neither the petitioners nor the opposite parties appeared to defend their cases. Learned Chairman, Tribunal, has recorded in her order that there is nothing on record to show that after revival of the consolidation proceeding several years after the same was dropped, notices were sent to the parties informing them about dates fixed for hearing. A plea was taken before the Tribunal that one learned Advocate, Mr. Rajesh Kumar Pathak had informed the revisional court on 02.02.2007 that four of the opposite parties were dead. There was no clue for the Tribunal to conclude as to for whom Mr. Rajesh Kumar Pathak had appeared and had given information about the death of the opposite parties in the revisional case. This is one of the reasons why learned Chairman of the Tribunal decided to interfere with the order of the Director Consolidation holding that it was the duty of the contesting parties



to establish that Ranbaso Kuer was the widow of Ugrah Singh. Learned Chairman has held that since they did not have proper opportunity to defend their case before the revisional court, such finding has no relevance. Dealing with the order passed by the Assistant Director of Consolidation, the Tribunal's observations need to be taken note of and are being reproduced hereinbelow :

“10. So far the order passed in Consolidation Appeal no.28 of 1993-94 is concerned on perusal, it transpires that it is a well considered order. The Assistant Director Consolidation had conducted spot verification. He examined witnesses and all documents which were produced by the parties. Considering everything the appellate court decides the appeal in favour of the applicant (petitioners). The appellate court has also held that the respondents (opposite parties) failed to produce any document in support of their claim. It has also been held that the Hon'ble High Court in C.W.J.C. No. 12819 of 1996 had directed the respondents (opposite parties) to get their title decided by the competent civil court. This writ application had been filed against the mutation order, passed in favour of the present petitioners. The respondents instead of getting their title decided by the competent civil court are claiming their title on the basis of the gift deed, and on the execution proceeding conducted during the pendency of the second appeal before the High Court. That execution proceeding has got no value because it all abated by the order passed by the High Court under Section 5(c) of the Consolidation Act. So far the Lakhna Kuer is concerned, whether she had right, title for execution of deed of gift. Ranbaso Kuer claimed to be the widow of Ugrah Singh i.e. the questions which can be considered and decided only by the competent civil court. The revisional court has not considered



any of these aspect while allowing the revision application is an ex-parte proceeding.”

After having held so, learned Chairman has set aside the impugned order of Director, Consolidation, and has affirmed the order of the Assistant Director of Consolidation after noticing the same to have been passed on due appreciation of evidence available on record.

I do not consider it appropriate to interfere with the impugned order in the present proceeding under Article 226 of the Constitution of India as I do not find any legal infirmity in the order. The impugned order has taken note of all the relevant facts available on record. It cannot be said that any material fact has gone unnoticed by the Tribunal or any irrelevant aspect has been taken into account while passing the impugned order. The impugned order, therefore, does not need interference.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
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