

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18044 of 2011

1. SURENDRA PRATAP SINGH
2. Shashi Ranjan Singh Both S/o late Ravi Shankar Singh Both R/o Kadai,
Anchal- Kudra, P.S. Kudra, District- Bhabua.
... .. Petitioner/s
- Versus
1. THE STATE OF BIHAR
2. The Director, Consolidation, Bihar, Patna.
3. The Deputy Director, Consolidation, Rohtas at Sasaram.
4. The Consolidation Officer, Kudra, Kaimur at Bhabua.
5.1. Narendra Pratap Singh S/o late Uday Shankar Singh
5.2. Anuj Kumar Singh
5.3. Anup Kumar Singh
5.4. Ambuj Kumar Singh All Sons of Narendra Pratap Singh All Resident of
Village- Kadai, P.O. Sakari, P.S. Kudra, District- Kaimur.
... .. Respondent/s
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Appearance :

For the Petitioner/s : Mr.Ravi Shankar Sahay
For the Respondent/s : Mr.Raju Giri GP30

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 20-01-2020 Heard both sides.

The petitioners in this writ petition seeks quashing of the order dated 17.03.2011 passed by the Director, Consolidation, Bihar, Patna in Consolidation Revision Case No.165 of 2010 by which the Director, Consolidation set aside the order dated 08.06.2010 passed by the Dy. Director, Consolidation, Rohtas in Consolidation Appeal No.12 of 2010-11 and confirmed the order of the Consolidation Officer, Kudra, Kaimur passed in Consolidation Case No.44 of 2009-10.

The brief facts that the petitioner's father, late Ravi



Shankar Singh and Uday Shankar Singh, the father of respondent No.5(i) were sons of Ram Bharat Singh. They owned joint property in village Kadai and other villages. Uday Shankar Singh, the father of respondent No.5(i) filed petition before the Consolidation Officer for correction of record of rights with regard to the land of Khata No.66 area 25.15 acres. During the course of consolidation, the land of Shahpur was allotted in the name of father of the petitioners on assurance that the record of right of entire land of village Kadai will be recorded in the name of Uday Shankar Singh-respondent No.5(now deceased). The Consolidation Authority accordingly recorded five shares in the name of Uday Shankar Singh and two shares in the name of Surendra Prtap Singh and Shashi Ranjan Singh, both sons of Ravi Shankar Singh in the lands of Kadai. The petitioners filed consolidation appeal being Consolidation Appeal No.12 of 2010-11 before the Dy. Director, Consolidation and Dy. Director, Consolidation set aside the order of the Consolidation Officer holding that out of 25.15 acres land, the respondent No.5 got only half share whereas 2/3rd land was recorded in the name of respondent No.5 and accordingly, ordered for mutation of half of the land in favour of the petitioner and half in the share of Uday Shankar Singh. In



revision, the Director, Consolidation, Bihar, Patna on the basis of the so called compromise and on the fact that the respondent No.5 was found in possession of 17.93 acres of land out of 25 acres of land situated in village Kadai, ordered for recording the name of the respondent No.5 after setting aside the order of the Dy. Director, Consolidation, Rohtas.

Mr. S.S.Dvivedi, learned senior counsel appearing on behalf of the petitioners submits that the land situated in village Shahpur was purchased by the father of the petitioners and, therefore, the respondent No.5(now deceased) and his son are not entitled to get any share. Out of 25 acres land situated in village Kadai, the petitioners are also entitled to get half share. It is further submitted that there was no evidence before the Director, Consolidation and on the basis of mere hypothetical assumption of possession of the respondent No.5, 2/3rd land of village Kadai has been illegally ordered to be recorded in the name of respondent No.5.

Learned counsel for the respondent no.5 submits that the petitioner and respondent No.5 owned land in different villages including village Shahpur and Kadai but this fact that the father of the petitioners acquired the land in village Shahpur from his own income is not proved rather the entire lands of



Shahpur were acquired in jointness of both brothers from the income of the joint family. It is submitted that let the order of the Director, Consolidation as well as order of Consolidation Authority be set aside and the matter be remitted to the Court of Consolidation Officer to decide the matter afresh in accordance with law. On such submission, Mr. S.S. Dvivedi, learned senior counsel for the petitioners also agreed.

Having considered the submission of both sides and on perusal of the records, I find that there is no material to show before the Consolidation Authority that there is partition between two brothers but on mere assertions of partition, 2/3rd land of village Kadai was ordered to be recorded in the name of respondent No.5. Since both the parties have agreed that let the matter be remitted for fresh decision, I set aside the order dated 17.03.2011 passed in Consolidation Revision Case No.165 of 2010 and the order dated 31.03.2010 passed by the Consolidation Authority in Consolidation Case No.44 of 2009-10. The matter is remitted to the Court of Consolidation Authority, Kudra, Kaimur to decide the matter afresh in accordance with law. This writ petition is allowed accordingly.

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(Prabhat Kumar Jha, J)