

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18718 of 2014**

=====

Deepak Kumar Singh Son of Late Rameshwar Singh Resident of Village -  
Mow Dhaneshpur South, P.O. P.S. - Vidyapati Nagar, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Joint Director Consolidation, Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. Draupadi Devi Wife of Late Visheshwar Prasad Sahi
5. Arun Kumar Sahi.
6. Varun Kumar Sahi.
7. Diwakar Prasad Sahi All Sons of Late Visheshwar Prasad Sahi, Residents of  
Village - Chadhua, P.s. - Kudhni, District - Muzaffarpur.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Ms. Jyoti Ranjan, Adv.  
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

=====

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

2      27-06-2023                      Heard learned counsel for the petitioner and learned  
counsel for the State.

2. The present writ petition has been filed with  
following prayers which are set-out hereinbelow:-

*I. For setting aside the order dated  
22.05.2010 (Annexure-5) passed by Learned  
Joint Director, Consolidation, Muzaffarpur,  
in connection with Revision Case No.01 of  
2010, by which he has been pleased to direct  
correction of continuous Khatiyani in favour*

*of private respondents, by deleting the name of Khatiyani Raiyat (late father of the petitioner) from continuous Khatiyan behind the back of petitioner.*

*II. For Setting Aside the Form No.17, which has been issued in pursuance of the aforesaid Impugned Order, adding the name of the private respondents in place of original Raiyats.*

*III. For holding that, the aforesaid Impugned Order passed by respondent no.2 is illegal and without jurisdiction.*

*IV. For holding that, a petition under Section 35 of Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956, cannot be filed or entertained directly, in absence of any matter adjudicated/ or pending before a Sub-ordinate Court.*

*V. For holding that, entries of a continuous Khatiyan prepared under the provision of Bihar Tenancy Act, cannot be challenged before a Consolidation Court.*

*VI. For holding the Impugned Order as null and void, in view of the fact that the same was passed against the dead person (already died in the year 1993), without impleading the proper legal heir i.e. petitioner who was the necessary party in the said case.*

*VII. For holding that, validity of a sale deed executed by a lawful owner cannot be challenged before or interfered with by a Consolidation Court.*

*VIII. For holding that, passing of any Order behind the back of a necessary party, is null and void in the eye of law.*

*IX. for holding that, entertaining a petition directly filed under Section 35 of Bihar Consolidation and Prevention of Fragmentation Act is not maintainable before a Consolidation Court.*

*X. For holding that, direction by respondent no.2 i.e. Joint Director, Consolidation to nullify/ modify the effect of a continuous Khatiyani prepared under the provisions of*

*Bihar Tenancy Act, amounts to unlawful interference with the jurisdiction of a competent court, having jurisdiction to decide such dispute.*

*XI. For holding that, on account of being the necessary party, petitioner ought to be heard by respondent no.2, in place of his late father who has already died in the year of 1993.*

*XII. For holding that, correctness of legality of a continuous Khatiyani can only be challenged before a revenue Court and not before a Consolidation Court.*

*XIII. For holding that, provisions of various sections of Bihar Tenancy Act, can be ignored only for the purpose of Cadestral Survey and Preparation of Record of Right before Consolidation and not thereafter as per the mandate of Rule 6 of the Bihar Consolidation of Holdings Rules, 1958.*

*XIV. For holding that, correction of continuous Khatiyani is not within the*

*jurisdiction of a Consolidation Court.*

*XV. For holding that, passing the Impugned Order, deliberately behind the back of the petitioner is flagrant violation of the doctrine of natural justice.*

*XVI. For holding that, petitioner is the bonafide owner of the land, by virtue of the Sale Deed executed by the ancestor of the private respondents, in favour of his late father and Uncle (which was also mutated in their's favour subsequently), which was never challenged by the private respondents before any competent Court.*

3. It transpires to this Court that matter is related to Consolidation Act, which covers under Section 9 of the Bihar Land Tribunal Act.

4. The present writ petition is related to Section 35 of Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956, which is a Schedule Act under Section 9 of the Bihar Land Tribunal Act, 2009.

5. This Court is of the opinion that this matter ought to be adjudicated by the Bihar Land Tribunal.

6. Since Section 15 of the Bihar Land Tribunal Act, 2009 empowers that the petitions filed under Articles 226 and 227 of the Constitution of India be immediately transferred to the Tribunal.

7. In this view of the matter, Registry of Hon'ble Patna High Court, Patna is directed to transfer the record of this case to the Bihar Land Tribunal forthwith.

8. With the aforesaid direction, the present Writ Petition stands disposed off.

**(Dr. Anshuman, J.)**

prakashmani/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|