

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10713 of 2019

1. Arun Kumar Srivastav son of Late Shankar Lal @ Shankar Prasad resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
2. Jyoti Kumar son of Late Shankar Lal @ Shankar Prasad resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
3. Shyam Sundar son of Late Shankar Lal @ Shankar Prasad resident of Village- Muradabad, P.S. Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Deptt. Govt. of Bihar, Patna.
2. The Joint Director, Consolidation, Bihar, Patna.
3. The Deputy Director of Consolidation, Rohtas at Sasaram.
4. The Consolidation Officer, Sasaram, District- Rohtas.
5. Manoj Kumar son of Late Bijay Kumar resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
- 6.1. Pratima Devi W/o Late Sanjay Kumar R/o Village- Muradabad, P.S. Sasaram, District- Rohtas.
- 6.2. Prachi Sinha D/o Late Sanjay Kumar R/o Village- Muradabad, P.S. Sasaram, District- Rohtas.
7. Rajesh Kumar son of Late Bijay Kumar resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
8. Rajib Kumar son of Late Bijay Kumar resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
9. Kumari Hemlata d/o Late Bijay Kumar resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
10. Most. Kishori Devi w/o Late Bijay Kumar resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
12. Ajay Kumar Sinha son of Late Jai Gobind Lal resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
13. Ajit Kumar Sinha son of Late Jai Gobind Lal resident of village- Muradabad, P.S. Sasaram, District- Rohtas.
14. Smt. Prabha Devi d/o Late Jai Govind Lal w/o Sri Shiva Prasad Lal resident of Village- Bhardvan, P.S. Chenari, District- Rohtas.
15. Smt. Manorma Devi d/o Late Jai Govind Lal, w/o Sri Gopal Narain Lal resident of village- Dhangua, P.S. Karahagar, District- Rohtas.
16. Smt. Saroj Devi d/o Late Jai Govind Lal, wife of Sri Ashok Kumar Sinha resident of village- Parasathu, P.S. Kochas, District- Rohtas.
17. Smt. Sabita Devi d/o Late Jai Govind Lal, w/o Sri Mukesh Kumar Sinha resident of village- Makhara, P.S. Barun, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. K. N. Choubey, Sr. Adv.
	:	Mr. Siddharth Harsh, Adv.
	:	Ms. Ritu Priydarshinin, Adv.
For the State	:	Mr. Navnit Kumar, AC to GP-18
For the Respondent/s	:	Mr. Rajendra Narain, Sr. Adv.

: Mr. Anju Narain, Adv.
: Mr. Umesh Roy, Adv.
: Mr. Sanjana, Adv.
: Mr. Anant Kr. Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 28-08-2023 Heard learned Sr. Counsel Mr. K. N. Choubey along with Mr. Siddharth Harsh, Advocate for the petitioners and learned counsel for the State as well as learned counsel for the respondent/s.

2. The petitioner has filed this writ petition for seeking direction to set- aside the order dated 27.09.2018 passed in BLT Case No. 104 of 2018 passed by the Bihar Land Tribunal, Patna, the order dated 06.12.2017 passed by the Joint Director, Consolidation, Patna in Revision Case No.104 of 2017, the order dated 17.03.2017 passed by the Deputy Director, Consolidation Rohtas at Sasaram in Appeal No. 36 of 2016-17 and also the order dated 07.08.2015/29.09.2015 passed by the Consolidation Officer, Sasaram in Misc. Case No. 01 of 2015-16.

3. Learned Sr. Counsel for the petitioners fairly submits that it is the second round of litigation and in the second round of litigation, the petitioners have lost in all the Courts. But learned Sr. counsel submits that in the first round of litigation, the matter was decided by this Hon'ble Court vide judgment dated 11.05.2015 passed in CWJC No.3205 of 1993, in which finding of the Hon'ble Court was very specific that the dispute involved in this case

among the parties ought to be resolved only by virtue of oral evidence and in this regard a direction was made in paragraph no.18 and further in paragraph no.20 of the said judgment dated 11.05.2015 passed in CWJC No.3205 of 1993. Learned Sr. counsel appearing on behalf of the petitioners categorically submits that after passing the order by the writ Court, the matter was heard by the Consolidation Officer, Sasaram, the Deputy Director of Consolidation, Rohtas at Sasaram, the Joint Director, Consolidation, Patna and Bihar Land Tribunal, but all the said Courts decided this dispute without following the instructions laid down in the judgment dated 11.05.2015 passed in CWJC No.3205 of 1993 i.e. to take oral evidences.

4. Counsel for the private respondents submits that the dispute, which is in question, is whether a property which has been purchased in the name of a coparcener, belongs to the joint family or it is treated to be a separate property. Counsel further submits that this question can be decided only by the Court of competent jurisdiction as oral evidences are necessary to be adduced.

5. In the light of submissions made by the parties, this Court is of the view that the observation made by this Hon'ble Court in the judgment dated 11.05.2015 passed in CWJC No.3205 of 1993 is correct and the dispute arisen here can be decided only after adducing the oral evidences.

6. In this view of the matter, the petitioners seek liberty to withdraw the writ petition to avail remedy before the competent Civil Court, which shall decide the issue whether the property which was purchased by a coparcener shall be treated to be the joint property or self acquired property of the grandfather of the petitioners ?

7. The writ petition is permitted to be withdrawn with liberty to the petitioner to avail remedy before the Civil Court.

8. It is made clear that at the time of deciding this case, the Competent Civil Court shall take into consideration the evidences of the parties primarily and shall not prejudice from the decisions made by the Revenue Courts at different levels.

9. With the aforesaid direction, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

Ashishsingh/-

U			
---	--	--	--