

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1215 of 2018
In
Civil Writ Jurisdiction Case No.12886 of 2006

- 1.1. Arbind Kumar Resident of Village-Chhoti Balha, P.S.-Manshi, District-Khagaria.
1.2. Prasant Kumar Singh, Resident of Village-Chhoti Balha, P.S.-Manshi, District-Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Hans Raj Yadav son of Nand Lal Yadav resident of Mohalla - 10, Lohia Nagar, ward No. 3, P.S. Supaul, District - Supaul.
3. Most. Meera Devi widow of Vijay Kumar Yadav resident of Gaurabgarh, Ward No. 4, Supaul under Supaul Nagar Parishad, P.S. and District - Supaul.
4. Bishundeo Yadav @ Bishundeo Yadav son of Mishri Lal Yadav resident of village Mahua, P.S. and District Supaul.
5. Deputy Director of Consolidation, Purnea.
6. Deputy Director of Consolidation, Saharsa.
7. Consolidation Officer, Supaul.
8. Most. Tara Devi widow of Late Babu Lal Mahto
9. Munu Prasad Mahto
10. Raghubar Mahto
11. Awdhesh Mahto
12. Mithilesh Mahto
13. Navlesh Mahto
14. Ram Narain Mahto
15. Deo Narain Mahto Respondents no. 9 to 15 sons of Babu Lal Mahto Respondents no. 8 to 15 are residents of Village - Balha, P.S. Chautham, District - Khagaria Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anil Kumar Mukund
For the Respondent/s : Mr.Md.Khurshid Alam

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 05-12-2023 The respondents in the writ petition have filed the

above Appeal seeking to uphold the order impugned in the writ



petition which was set aside on the question of jurisdiction.

2. The only question raised in the writ petition is whether the Deputy Director who passed the impugned order, has the jurisdiction to consider the revision under Section 35 of Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the 'Act').

3. The writ Court found that the definition clause at subsection (4) of Section 2 defines Director of Consolidation as an officer appointed as such by the State Government to exercise the powers and perform the duties of Director of Consolidation under this Act or the Rules made thereunder and shall include an Additional Director of Consolidation and a Joint Director of Consolidation. The contention was that a Deputy Director does not come within the scope of the definition and the order passed is without jurisdiction.

4. It is also seen from the statement of facts made in the writ petition that in the present case the order of the Deputy Director of Consolidation was challenged before another Deputy Director and the impugned order was passed. The learned Single Judge had also relied upon a decision of this Court in the case of **Ram Pratap Singh v. State of Bihar reported in 2007 (1) PLJR 57,**



5. The cited decision relied on *Ramotar Yadav v. the State of Bihar 2001 (1) PLJR 266*, which held that “the power of revision and reference vested in the Director of Consolidation under Section 35 of the Act can at best be exercised only by any of such authorities as defined under sub-section (4) of Section 2 which does not include the Deputy Director of Consolidation” (sic-para 13).

6. We also see that the learned Single Judge has merely directed consideration by the appropriate authority, i.e., the Director of Consolidation including an Additional Director of Consolidation or a Joint Director of Consolidation. We find absolutely no reason to interfere with the judgment passed by the learned Single Judge.

7. The Appeal would stand dismissed without any observation on the merits of the subject matter agitated under Section 35 of the Act.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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