

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4010 of 2023

Vikash Kumar Choudhary Son of Late Ram Bahadur Choudhary, Resident of Mohalla-Chawar Takiya, P.O. and P.S.-Sasaram, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Consolidation (H.Qr.) Bihar, Patna.
3. The Joint Director, Consolidation (H.Qr.) Bihar, Patna.
4. The Collector, Rohtas at Sasaram.
5. The Deputy Collector, Land Reforms, District-Rohtas at Sasaram.
6. The Deputy Director, Consolidation, District-Rohtas at Sasaram.
7. The Consolidation Officer, Chenari, District-Rohtas.
8. Guddu Singh son of Late Ramayan Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
9. Shashi Kant Singh, son of Late Ramji Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
10. Nirmal Singh, son of Raghunandan Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
11. Sheojati Singh, Son of Raghunandan Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
12. Bindhyachal Pandey, son of Late Ramayan Pandey, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
13. Nathuni Singh, son of Late Meghnath Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
14. Rajendra Singh, son of Late Suryabansh Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
15. Pintu Singh, son of Late Suryabansh Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
16. Bablu Singh, son of Late Suryabansh Singh, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.
17. Sudarshan Pandey, Son of Sarju Pandey, Resident of Village and P.O.-Khurmabad, P.S.-Chenari, District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akhouri Vipin Bihari Shrivastava, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 19-09-2023

Heard learned counsel for the petitioner and



learned counsel for the State.

2. The present writ petition has been filed for setting aside the judgment dated 10.06.2022 passed by Bihar Land Tribunal, Patna in B.L.T. Case No.82 of 2020, also the order dated 25.09.2019 passed by Joint Director, Consolidation (H.Qrs.), Patna in Case No.85 of 2018, order dated 11.12.2015 passed by Deputy Director, Consolidation, Rohtas at Sasaram in Appeal No.23 of 2014-15 and also the order dated 09.05.2014 passed by Consolidation Officer, Chenari, Rohtas in Permission Case No.2 of 2014-15.

3. Learned counsel for the petitioner submits that the order passed by the Bihar Land Tribunal, Patna is bad in law due to the reason that no reason has been assigned by the Tribunal and the case of petitioner has been dismissed only on the ground that it suffers from non-joinder of necessary party.

4. Learned counsel for the petitioner submits that the order dated 28.08.2009 passed in L.P.A. No.547 of 2001 was in favour of ancestor of petitioner and, therefore, no one can interfere in the said order. He further submits that taking permission under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act 22 of 1956) is basically an executive decision and there is no



question of interference in the same.

5. Learned counsel for the State submits that the order passed by the Bihar Land Tribunal is well reasoned order and there is no need of interference in the same.

6. Upon going through the pleadings and the argument of the parties, it is necessary to discuss the provision of law laid down under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act 22 of 1956) which is as follows :-

“[35. Revision and Reference. - The Director of Consolidation may of his own motion or on the application of any party or on reference being made by any subordinate authority, call for and examine the record of any case decided or proceedings taken by such authority for the purpose of satisfying himself as to the regularity of the proceeding; or as to the correctness, legality or propriety of any order passed by such authority in the cases or proceedings, and may after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit.]”

7. It transpires to this Court that it is true that the decision to grant permission to permit to sale or not to sale is an executive decision but definitely by the said executive decision, it is the parties who shall suffer and, therefore, the necessary



party who has to suffer or going to be affected by the said executive decision is necessary to be heard.

8. In the present case, prior to reaching on the conclusion of deciding this case, following reason has been assigned by the Bihar Land Tribunal which is as follows :-

“It appears from the record that initially, the application for permission to sell the land in question was filed by Ram Bahadur Choudhary, the father of petitioner before the Consolidation Officer and against the order passed by the Consolidation Officer, said Ram Bahadur Choudhary filed appeals aforesaid before the Dy. Director Consolidation which were dismissed. Thereafter, Revision Case No. 85 of 2018 under Section 35 of the Act, 1956 was filed by Shankar Choudhary, the son of Ram Bahadur Choudhary and others but the present case has been filed by only Vikash Kumar Choudhary, the son of said Ram Bahadur Choudhary without arraying said Shankar Choudhary i.e. one of revisionists as a party in this case nor in this regard anything has been averred in the main application. This indicates that present case also suffers from non-joinder of necessary parties.”

9. This Court is completely agree with the view taken by the Bihar Land Tribunal that the present case suffers from non-joinder of necessary party as before the Consolidation



Officer, the ancestor of the petitioner had moved, thereafter, at different levels, after death of his ancestor, all the persons had not represented rather only one of them has represented. The property which was in the name of the ancestor of petitioner if permitted to sale, definitely the other family members of the said ancestor shall also be sufferer and as such, this Court is of the view that the finding of the Bihar Land Tribunal, Patna is absolutely right and there is no need of interference in the order passed by Bihar Land Tribunal, Patna.

10. With this observation, the present Writ Petition stands dismissed.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22/09/2023
Transmission Date	NA

