

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9085 of 2021

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Ashwani Kumar Jha Son of Basuki Nath Jha Resident of village and P.O.-
Abhuar, P.S.- Kishanpur, District- Supaul

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Consolidation, Bihar, Patna
3. The Deputy Director, Consolidation, Purnea
4. The Consolidation Officer cum Anchal Adhikari Kishanpur, District- Supaul
5. Bahadur Yadav Son of Dhanik Lal Yadav resident of village and P.O.-
Abhuar, P.S.- Kishanpur, District- Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashwani Kumar Tiwary, Advocate
For the Respondent/s : Mr. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 23-09-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for quashing
the order dated 10.10.2011 passed by the Director, Consolidation,
Bihar, Patna in Consolidation Revision Case No. 104 of 2002 by
which order the Revision Case filed by Bahadur Yadav has been
allowed with a direction to record the name of Bahadur Yadav with
respect to the land situated at Mauza Keotapatti Thana No. 74, P.S.
Kishanpur, Dist. Supaul, appertaining to C.S. Khata No. 85, C.S.
Plot No. 540 equivalent to R.S. Plot No. 902, area 80 decimal and



R.S. Plot No. 905, are a 36 decimals and C.S. Khata No. 419, C.S. Plotr No. 4126, equivalent to R.S. Khata No. 1235, R.S. Plot No. 5309/7398 area 01 decimal which is highly illegal and unjustified as the aforesaid 1 and belongs to the petitioner which apparent from the order dated 22.04.1998 passed by the Deputy Director Consolidation, Purnea in Revision Case No. 1113/1994 which Revision Case No. 1113/1994/162/1997 which revision was filed by Bijay Jha and others including Bahadur yadav and the intervention application was filed on behalf of petitioner ancestor Udit Narayan Jha and Awadha Narayan Jha and Revision Case No. 1113/1994/162/1997 was allowed in favour of Intervenors, but the Bahadur yadav by suppressing the aforesaid fact filed the aforesaid Revision Case No. 104/2002 and thus the order dated 10.10.2011 passed in Revision Case No. 104 of 2022 is liable to be quashed and the order dated 22.04.1998 passed in Revision Case No. 1113/1994/162/1997 is fit to be confirmed.

3. Learned counsel for the petitioner submits that a land appertaining to C.S. Khata No. 85, C.S. Plot No. 540, area 2 bigha, 4 katha and 5 Dhur was acquired through settlement from Ex-landlord in 1357 "*Fasli*" in the name of the petitioner ancestor namely Udit Narayan Jha and Awadh Narayan Jha. The half of the land acquired by settlement fell in the share of Udit Narayan Jha



and half share was allotted to Madhav Jha and Awadh Narayan Jha and other co-sharer and their heirs (petitioner) and they have been coming in peaceful possession over the land in question. The Ex-land lord submitted the return of the land in question in the name of the petitioner ancestor namely Udit Narayan Jha and Awadh Narayan Jha. The petitioner has been paying the rent for land appertaining to old Khasra No. 540, area 2 Bigha, 4 Katha, dhirs right from the Ex-land lord to the State of Bihar and he has been receiving the rent receipts for the same. During the Revisional Survey operation R.S. Plot No. 900, 901, 902 and 905 measuring area 62 decimals, 23 decimals, 80 decimals respectively were carved out from C.S. Plot No. 540 and it was wrongly recorded as the lands of the State of Bihar although the State of Bihar has no concern with the said land.

4. Learned counsel for the petitioner submits that the petitioner ancestor namely Udit Narayan Jha and Awadh Narayan Jha filed Objection Case No. 214 and 179 under Section 103(A) of the Act and the Survey Officer ordered to record the name of the petitioner ancestor for R.S. Plot No. 900 vide Case No. 214 and R.S. Plot No. 901 vide Case No. 179 and for R.S. Plot No. 902 and 905 ordered to be remained in the name of State of Bihar although the Assistant Settlement Officer made spot verification and found



the peaceful possession petitioner and their co-sharers but the Assistant Circle Officer only ordered for recording the names of the petitioner and their co-sharers for R.S. Plot No. 900 and 901. Then the petitioner ancestor filed objection under Section 10(2) of Consolidation Act vide Case No. 35/76 before Consolidation Officer, Kishanpur and the Consolidation Officer after through enquiry passed order on 03.04.1976 for recording the name of the petitioner ancestor and other co-sharers with respect to the land bearing R.S. Plot No. 900, 901, 902 and 905 but from the time khatiyan issued from the Office of Consolidation Officer, Kishanpur Khata number of R.S. Plot No. 900 and 901 were only recorded in the name of the petitioner ancestor and the khata of R.S. Plot No. 902 area 80 decimal and R.S. Plot No. 905 area 37 decimals were still recorded in the name of the State of Bihar. Learned counsel for the petitioner further submits that the petitioner ancestor came to know that Revision Case No. 1113/1994 has been filed before the Deputy Director, Consolidation, Purnea by one Bijay Jha and Bahadur Yadav against the State of Bihar and others with respect to the land belonged to the petitioner. Then the petitioner ancestor filed intervention application in the same and the petitioner ancestor became the intervenors in the aforesaid case in which the



petitioner ancestor produced all the relevant documents and the Deputy Director, Consolidation, Purnea (respondent no. 3) vide its order dated 22.04.1998 decided the case in favour of the petitioner ancestor by directing the concerned authority to make necessary correction by recording names of the petitioner ancestor in Khatiyan with respect to the land bearing R.S. Plot No. 902 area 80 decimals and R.S. Plot No. 905 area 37 decimal. The Respondent No. 5 who had filed the aforesaid Revision Case No. 1113/1994/162/1997 has challenged the aforesaid order dated 22.04.1998 filed Revision Case No. 104 of 2002 before the Director, Consolidation, Bihar, Patna without impleading the petitioner or their ancestors as parties by wrongly making his prayer for recording his name with respect to the land bearing R.S. Plot No. 902 area 80 decimals and R.S. Plot No. 905 area 36 decimal and R.S. Plot No. 5309/7398, 01 decimal and the Director, Consolidation vide his order dated 10.10.2011 passed in Revision Case No. 104 of 2002 directing to record the name of Respondent No. 5 with respect to the aforesaid land.

5. Learned counsel for the State, on the other hand, has vehemently opposed and submits that the order dated 10.10.2011 passed in Revision Case No. 104 of 2002 by the Director, Consolidation, Bihar, Patna and it appears from the pleadings of



the writ petition that the petitioner has obtained the certified copy of order dated 10.10.2011 long back in 27.01.2012 but has not chosen to file any application before the appropriate forum and in the year 2021 he has challenged the order dated 10.10.2011 which was passed in Revision Case No. 104 of 2002.

6. The petitioner should have approached this Court within a reasonable period of time with reference to Limitation Act i.e. three years since there is no time limit for filing the writ petition. At the same time, it is necessary to take note of laches on his part.

7. The Hon'ble Apex Court in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and Others**, reported in **AIR 2016 SUPREME COURT 3006**, referring to the paragraph-20, which is as follows :

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus :-



“The Court while exercising its jurisdiction under Article 226 is duty bound to consider whether :

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolves;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

8. Paragraph-20 of the aforesaid judgment laid down general principle before entertaining any writ petition. The writ court is duty bound to examine delay as well as laches.

9. It appears from the record that the petitioner has challenged the order dated 10.10.2011 passed in Revision Case No. 104 of 2002 and he has obtained the certified copy of the order



long back in the year 2012 and the petitioner has filed the writ petition in the year 2021 after delay of about 10 years.

10. On the ground of delay and laches of about 10 years in filing the present writ petition, This Court has no other option to dismiss the present writ petition.

11. It is, accordingly, dismissed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
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