

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4806 of 2025

=====

Dhirendra Pratap Singh, S/o- Late Gauri Shankar Singh, R/o- Village- Kadaie,
P.O.- Kudra, Anchal and P.S.-Kudra, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Patna.
2. The Joint Director, Consolidation (HQ), Bihar, Patna.
3. The Deputy Director Consolidation, Rohtas at Sasaram.
4. The Consolidation Office, Anchal Kudra, District- Kaimur at Bhabua.
5. Lal Muni Singh son of Late Subedar Singh resident of Village- Kadaie, P.O.- Kudra, Anchal and P.S. Kudra, District-Kaimur at Bhabua.
6. Hira Singh son of Late Subedar Singh resident of Village- Kadaie, P.O.- Kudra, Anchal and P.S. Kudra, District-Kaimur at Bhabua.
7. Dwarika Tiwary, S/o- Late Gullu Tiwari R/o- Village-Jahanabad, P.O.- Kudra, Anchal and P.S.- Kudra, District- Kaimur (Bhabua).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Siddharth Harsh
For the Respondent/s : Mr. Additional Advocate General (13)

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 27-03-2025 1. Heard learned counsel for the petitioner and learned
AC to AAG-13 for the State.
2. The learned counsel appearing on behalf of the
petitioner submits that the land in dispute pertains to Khata No.14,
Plot No.304, Area 53 decimal, Khesra No.306, area 9 decimal
(Total area 62 decimal) under Mauza-Kadai, Thana No.646,
Circle-Kudra District- Kaimur. It is submitted that the aforesaid
land in dispute belonged to Gullu Tiwari father of Dwarika Tiwary
(respondent no.7 herein). It is submitted that a registered deed of



exchange bearing no.8840/8766 dated 21.09.1990 was executed in between Lal Muni Singh and Hira Singh (respondent nos.5 and 6 herein) on one side and Gullu Tiwari. Respondent nos.5 and 6 in pursuance of the registered deed of exchange dated 21.09.1990 transferred their share in land pertaining to Khata No.30, Khesra No.296, Area 84 decimal to Gullu Tiwari. Accordingly, the disputed land in the instant case was transferred to respondent nos.5 and 6. Thereafter, Case No.467 of 1990-91 was filed by Lal Muni Singh and Hira Singh while Case No.468 of 1990-91 was filed by Gullu Tiwari before the Consolidation Officer, Kudra for recording their name with respect to the land mentioned in the deed of exchange dated 21.09.1990 under Section 10(2) of the Consolidation Act. Both the cases were allowed by an order dated 24.10.21990 passed by the Consolidation Officer. Accordingly, Gullu Tiwari came in possession of the land of respondent nos.5 and 6 while Lal Muni Singh and Hira Singh came in possession of the land of Gullu Tiwari. Thereafter, Chak Khatian was prepared with regard to 62 decimals of land in the name of respondent nos.5 and 6 i.e. Lal Muni Singh and Hira Singh. Similarly, Chak khatian with respect to 84 decimals of land pertaining to Plot no.84 was prepared in the name of Gullu Tiwari i.e. father of respondent no.7 herein. It is submitted that Gullu Tiwari came to know that land pertaining to Plot No.296, which was exchanged



by Lal Muni Singh and Hira Singh in lieu of the land of Gullu Tiwari was under ceiling proceeding and the same was acquired by the government as surplus land and distributed amongst the landless persons. Further, one Jamuna Dusadh and other parcha-holder have filed Case No.559 and 560 of 1990-91 for opening the Khata in their name with respect to land pertaining to Plot No.296, as such, Gullu Tiwari realized that a fraudulent transaction was made by Lal Muni Singh and Hira Singh and he was duped, as such, Gullu Tiwari filed Case No.585 of 1990-91 before the Consolidation Officer, Kudra against the order dated 24.10.1990 in Case No.467 of 1990-91 filed by Lal Muni Singh and Hira Singh based on registered deed of exchange dated 21.09.1990. It is submitted that Gullu Tiwari before filing Case No.585 of 1990-91 also executed a deed of cancellation bearing No.10700/10599 dated 21.11.1990 on the ground that the land exchanged by Lal Muni Singh and Hira Singh is under ceiling proceeding and the same was distributed against the beneficiaries as such, they i.e. Lal Muni Singh and Hira Singh despite being aware of the said fact had executed the deed of exchange dated 21.09.1990.

3. The Consolidation Officer allowed Case No.585 of 1990-91 filed by Gullu Tiwari by an order dated 07.02.1991. It is submitted that after the death of Gullu Tiwari, his son Dwarika Tiwary (respondent no.7 herein) filed Case No.123 of 2009-10



before the Consolidation Officer, Kudra for implementing the order dated 07.02.1991 in Case No.585 of 1990-91.

4. At this stage, the learned State counsel points out that Case No.123 of 2009-2010 was filed by respondent no.7 after 17 years of passing of the order dated 07.02.1991 in Case No.585 of 1990-91. The Consolidation Officer allowed Case No.123 of 2009-10 filed by the respondent no.7 herein by an order dated 06.11.2009.

5. It is submitted that Lal Muni Singh and Hira Singh filed Consolidation Appeal No.53 of 2011-12 before the Deputy Director, Consolidation Rohtas (Sasaram) against the order dated 06.11.2009 passed by the Consolidation Officer in Case 123 of 2009-10 filed by Dwarika Tiwary i.e. respondent no.7. The Consolidation Appeal No.53 of 2011-12 filed by Lal Muni Singh and Hira Singh was dismissed by the Deputy Director Consolidation by an order dated 03.07.2012, thereafter, Lal Muni Singh and Hira Singh filed Consolidation Revision Case No.297 of 2012 before the Director Consolidation against the order dated 03.07.2012 in Consolidation Appeal No.53 of 2011-12 under Section 35 of the Consolidation Act.

6. The learned State counsel, at this stage, based on the order impugned submits that during pendency of Consolidation Revision Case No.297 of 2012 before the Director Consolidation,



Dhirendra Pratap Singh (petitioner herein) filed an intervention application for adding him as opposite party in Consolidation Revision No.297 of 2012 on the ground that he purchased the land in dispute from Dwarika Tiwary during pendency of Consolidation Appeal No.53 of 2011-12 filed by Lal Muni Singh and Hira Singh against the order dated 06.11.2009 in Case No.123 of 2009 vide registered sale deed no.6615 dated 05.07.2012 after obtaining permission of the Consolidation Officer, Kudra vide permission Case No.108 of 2011-12, further, the Consolidation Officer during pendency of Consolidation Appeal No.53 of 2011-12 allowed the Consolidation Case No.172 of 2012-13 filed by the petitioner herein by an order dated 06.06.2012 for recording his name over the land in dispute.

7. The learned State counsel submits that it absolutely does not stand to reason that as to on what basis the petitioner herein during pendency of Consolidation Appeal No.53 of 2011-12 sought permission from the Consolidation Officer for purchasing the land in dispute and the Consolidation Officer also gave permission despite Consolidation Appeal No.53 of 2011-12 was pending for adjudication. It is submitted that the Consolidation Officer acted in haste. It is also submitted that if the Consolidation Appeal No.53 of 2011-12 would have been allowed by the Deputy Director Consolidation, in that event, what would have happened ?



The learned State counsel further submits that it is a settled position of law that purchaser of land does not get a better title than the owner of the land. It is submitted that the said submission has been made, as it has bearing on the adjudication of the case.

8. The learned State counsel, at this stage, points out from Page-6 of the order impugned that it has been recorded that Lal Muni Singh and Hira Singh were not aware about the order dated 06.06.2012 passed in Consolidation Case No.172 of 2012-13 by the Consolidation Officer and they became aware only when petitioner herein filed the intervention application in Consolidation Revision Case No.297 of 2012, as such, the order dated 06.06.2012 passed in Consolidation Case NO.172 of 2012-13 was passed behind their back.

9. The learned counsel appearing on behalf of the petitioner submits that while Consolidation Revision Case No.297 of 2012 was pending adjudication before the Director, Consolidation, Lal Muni Singh and Hira Singh filed Consolidation Revision Case No.299 of 2016 against the order dated 07.02.1991 passed by the Consolidation Officer, Kudra in Consolidation Case No.585 of 1990-91 filed by Gullu Tiwari before the Director Consolidation. It is submitted that Lal Muni Singh and Hira Singh bypassed the provision of appeal against the order dated 07.02.1991 in Consolidation Case No.585 of 1990 and directly



filed the Consolidation Revision Case No.299 of 2016, as such, an illegality was committed.

10. The learned counsel appearing on behalf of the petitioner submits that Consolidation Revision Case No.297 of 2012 was heard analogous with Consolidation Revision Case No.299 of 2016 both filed by Lal Muni Singh and Hira Singh as recorded herein above and the Joint Director Consolidation dismissed both the Consolidation Revision Cases i.e. Case No.297 of 2012 and 299 of 2016 by a common order dated 18.05.2022, which was impugned before the learned BLT.

11. The learned counsel appearing on behalf of the petitioner submits that the learned BLT without appreciating the facts of the case in its correct perspective set aside the order passed by the Joint Director Consolidation in Revision Case No.297 of 2012 and Consolidation Revision Case No.299 of 2016. It is submitted that the learned BLT failed to appreciate that Lal Muni Singh and Hira Singh could not have directly challenged the order dated 07.02.1991 in Case No.585 of 19900-91 in Revision before the Director Consolidation without resorting to the remedy of filing an appeal. It is further submitted that it is an admitted position that the land which Lal Muni Singh and Hira Singh had exchanged with Gullu Tiwari was subject matter of a ceiling proceeding and the land was acquired by the government as



surplus and thereafter, distributed amongst the landless, as such, Lal Muni Singh and Hira Singh right from the beginning had entered into a fraudulent transaction when the registered deed of exchange was executed on 21.09.1990 based on mutual consent as Gullu Tiwari was not aware that the land for which Chak was created in his favour based on an order dated 21.04.1990 in Case No.467 of 1990-91 was subject matter of a ceiling proceeding. It is submitted that the BLT completely failed to appreciate that a fraudulent transaction cannot be given legal sanctity.

12. The learned counsel appearing on behalf of the State vehemently rebuts the said submission of the learned counsel appearing on behalf of the petitioner and submits that as submitted earlier, the petitioner by virtue of purchasing the disputed land during pendency of Consolidation Appeal No.53 of 2011-12 had taken a risk and ultimately before the BLT, the land owner i.e. Respondent No.7 herein lost, but then, the land owner has not come before this Court challenging the order of the BLT rather it is the petitioner, who claims to have purchased the land from respondent no.7 herein, is contesting, it is reiterated and submitted that the petitioner does not acquire a better title over the land in dispute than the land owner and if the land owner is not challenging the order of the BLT that amply demonstrates that the BLT after appreciating the facts in its correct perspective has



passed the order.

13. The learned State counsel fairly submits that the issue would have been different, had the land owner assailed the order of the BLT before this Court, as the land owner would have been in position to satisfy the Court, whether the deed of exchange was a fraudulent transaction or not.

14. The Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the State, as such, finds no merit in the writ application,

15. The writ application is accordingly dismissed.

(Satyavrat Verma, J)

vikash/-

U			
---	--	--	--

