

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6044 of 2015

1. Suresh Prasad Ray and Ors. son of Late Bishun Ray
2. Umesh Prasad Yadav son of Late Bishun Ray
3. Debanti Devi Daughter of Late Bishun Ray
4. Bimal Devi Daughter of Late Bishun Ray
5. Dhanbanti Devi Daughter of Late Bishun Ray
- 6.1. Shivpati Devi W/o late Fekan Rai
- 6.2. Chandrashekhar Prasad
- 6.3. Navdeep Chandra Prasad
- 6.4. Gulab Singh All Sons of late Fekan Rai
- 6.5. Sumitra Devi W/o late Anarjit Rai, D/o late Fekan Rai Resident of Village- Bhagwanpur, Police Station- Bhagwanpur, District- Vaishali.
- 6.6. Shakuntala Devi W/o Kameshwar Prasad Yadav and D/o late Fekan Rai Resident of Village- Goraipur, Police Station- Dighwara, District- Saran.
7. Singhshwar Rai son of Late Jailal Rai All are resident of village- Dighi Kala, P.O.- Dighi Kala P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Bihar Land Tribunal, Patna.
3. The Joint Director of Consolidation, Muzaffarpur, Dist- Muzaffarpur.
4. Kishun Paswan son of Jaga Paswan
5. Mahendra Paswan son of Late Ram Pratap Paswan
6. Manchan Paswan son of Late Ram Pratap Paswan
- 7.1. Mahli Devi Wife of Late Ganesh Paswan, x
- 7.2. Raju Paswan, son of Late Ganesh Paswan, x
- 7.3. Dharmendra Paswan, son of Late Ganesh Paswan, x
- 7.4. Sakindra Paswan, son of Late Ganesh Paswan, x
8. Lalu Paswan son of Late Jawahar Paswan
9. Dhaneshwar Paswan son of Late Jawahar Paswan
10. Nagina Paswan son of Hira Paswan
11. Pappu Paswan, son of Late Laxmi Paswan, x
1. 1.
12. Ram Bilash Paswan son of Hira Paswan
13. Raj Kumar Paswan son of Hira Paswan Resp. No. 4 to 13 are resident of village- Dighi Kala, P.O.- Dighi Kala, P.S.- Hajipur Sadar, District- Vaishali.

... .. Respondent/s

Appearance :



For the Petitioner/s : Mr. Anil Kr. Jha, (Sr.)
Mr. Premchandra Yadav, Adv.
For the State : Mr. Sumant Kr. Singh, AC to GA-2
Mr. Vinay Kirti Singh, Adv.
For the Respondents : Mr. N.C. Verma, Adv.
Mr. Natraj Verma, Adv.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

12 03-04-2025 I have heard learned counsel for the petitioners, the learned counsel for respondent No. 4 and also learned counsel for the State.

2. The present Writ application has been filed for quashing the order dated 04.01.2015 passed by learned Member Administrative, Bihar Land Tribunal, Patna in B.L.T. Case No. 706 of 2013, as contained in Annexure-8, whereby the order dated 23.08.1993 passed by Joint Director of Consolidation, Muzaffarpur in Revision No. 443 of 1991, as contained in Annexure-1, has been affirmed, whereby the Consolidation Officer, Hajipur has been directed to open the Khata of Plot Nos. 726, 694 in favour of late Moti Paswan and to open the Khata of Plot Nos. 730 and 731 in the names of Ram Pratap Paswan (ancestor of respondent nos. 5 to 9), Jaga Paswan, father of respondent no. 4 and Hira Paswan (father of respondent nos. 10 of 13) situated in Dighi Kala, Circle Hajipur, District–Vaishali.

3. The brief facts of the case is that the petitioners’



ancestor late Hazari Rai purchased the land, in question, through three sale deeds from the ancestors of the contesting respondents executed in the years 1948, 1953 and 1954 respectively. Two sale deeds were executed in the name of late Hajari Rai and one was executed in the name of his wife late Sudamia Devi @ Sudama Kuer. The name of the purchasers was entered in the *Serista* of ex-landlord and after vesting of the *Zamindari*, the rent receipts were granted by *Anchaladhikari*, Hajipur in favour of the ancestors of the petitioners. The consolidation operation was started in the village and during consolidation operation also, the names of ancestors of the petitioners were recorded. The contesting respondents did not appear during the consolidation operation. All of a sudden, one Moti Paswan filed a revision before the Deputy-Director (Consolidation) claiming the land, in question, to be his ancestral property and the Joint Director (Consolidation) without providing opportunity of being heard passed ex-parte order dated 23.08.1993 holding the sale deed in favour of late Hajari Rai as forged and fabricated. He also declared the sale deed as void.

4. Learned counsel for the petitioners has submitted that the order of the Joint Director (Consolidation) is not



sustainable in the eye of law. He passed the order in utter disregard of the settled principle that the consolidation authorities have no jurisdiction to declare a deed as void. Only a civil court can do so. In support of his submission, learned counsel has relied upon a decision reported in **2024 SCC OnLine SC 2929**. He has also submitted that the learned Member, Bihar Land Tribunal has also committed illegality while affirming the illegal order passed by the revisional authority. It has also been submitted that the contesting respondents had also concealed the fact before the revisional authority as well as the Bihar Land Tribunal that they had filed Title Suit No. 325 of 2000 for declaration of their title over that land. The petitioners, who were defendants in the title suit, appeared and filed their written statement and they denied the claim of the contesting respondents. After 10 years, the contesting respondents filed an application to withdraw that title suit and it was withdrawn by them in the year 2010. Thereafter, the order of withdrawal has become final. It has also been argued that while passing the order of withdrawal of that title suit, the civil court had also imposed a cost of Rs. 5,000/- on the respondents. As such, the contesting respondents have failed to prove that the land was belonging to them.



5. Learned counsel for respondent no. 4 has submitted that the disputed land was the ancestral property of contesting respondents and the persons, who had executed the sale deed in favour of the ancestors of the petitioners, had no right to execute those sale deeds.

6. It is an admitted fact that the contesting respondents had filed Title Suit No. 325 of 2000 and after 10 years in the year 2010, they filed an application to withdraw it. The suit was ordered to be withdrawn by the court concerned and while passing the order of withdrawal, the learned trial court had also imposed a cost of Rs. 5,000/- on the contesting respondents. The order of the Civil Court had become final and the Joint Director (Consolidation) did not consider this fact while passing the order dated 23.08.1993 and the learned Member, Bihar land Tribunal also failed to consider this point.

7. In my view, the learned Joint Director (Consolidation), Muzaffarpur and the learned Member Bihar Land Tribunal, had committed illegality in passing the orders dated 23.08.1993 & 04.01.2015 in Revision No. 443 of 1991 and in B.L.T. Case No. 706 of 2013 respectively. They have also ignored the settled principle of law that consolidation authorities cannot declare a deed as null and void.



8. On the basis of above-mentioned observations, the order dated 23.08.1993 passed by the Joint Director (Consolidation), Muzaffarpur in Revision No. 443 of 1993 and also the order dated 04.01.2015 passed by the learned Member (Administrative) Bihar Land Tribunal, Patna in B.L.T. Case No. 706 of 2013, are set aside.

9. Accordingly, this writ petition is allowed.

(Nawneet Kumar Pandey, J)

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