

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.554 of 2025

=====

Satyendra Narayan Mishra Son of Late Ganga Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through Addl. Chief Secretary, Dept. of Land and Revenue, Govt. of Bihar, Patna.
2. The Joint Director Consolidation (H.Q.) Bihar, Patna.
3. The Consolidation Officer, Bhagwanpur, District-Kaimur (Bhabhua).
4. Devendra Kumar Mishra @ Devendra Mishra, son of Late Bachan Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
5. Yamuna Mishra, son of Late Bachan Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
6. Alok Kumar Mishra, son of Late Ganga Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
7. Vijay Mishra, son of Late Krishna Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
8. Ajay Mishra, son of Late Krishna Mishra, Resident of Village-Padhouti, PO-Pahadiya, Anchal and P.S.-Bhagwanpur, District-Kaimur (Bhabhua).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mritunjay Kumar, Adv.
For the Respondent/s	:	Mr. Sunil Kumar, SC-3
	:	Mr. Bipin Kumar, AC to SC-3

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 23-01-2025 Heard learned Advocate for the petitioner and the learned AC to SC-3.

2. Learned Counsel for the petitioner submits that the petitioner and the private respondents have common ancestor, namely, Meghu Mishra, who had three sons, namely, Prayag Mishra, Late Ram Sakhi Mishra and Late Ram Bachan Mishra.

3. Prayag Mishra had one son, namely, Late Krishna Mishra, Late Ram Sakhi Mishra also had one son, namely, Late Ganga Mishra and Late Ram Bachan Mishra @ Bachan Mishra had two sons, namely, Devendra Kumar Mishra (respondent no. 4 herein and petitioner no. 1 before BLT) and Yamuna Mishra (respondent no. 5 herein and petitioner no. 2 before BLT), Late Krishna Mishra had two sons, namely, Vijay Mishra (respondent no. 7 herein and respondent no. 6 before BLT) and Ajay Mishra (respondent no. 8 herein and respondent no. 7 before BLT) and Late Ganga Mishra had two sons, namely, Satyendra Narayan Mishra (petitioner herein and respondent no. 4 before the BLT) and Alok Kumar Mishra (respondent no. 6 herein and respondent no. 5 before the BLT).

4. The learned Counsel next submits that Late Meghu Mishra was having land measuring 5 acres 54 decimal pertaining to Khata No. 52 and 55 at Mauja Padhouthi, P.S. Bhagwanpur, District Kaimur, as per CS Khatiyan (Annexure-1), after death of Meghu Mishra his three sons jointly got 5 acres 54 decimal land of Khata No. 52 and 55.

5. It is further submitted that during the Revisional Survey, inadvertently, the land pertaining to Khata No. 55, Plot 1180, area 2 acres 23 decimal got recorded in the name of Bachan Mishra son of Meghu Mishra and father of respondent nos. 4 and 5

herein, as would manifest from the RS Khaityan, which is annexed as Annexure-2.

6. Learned Counsel next submits that Late Krishna Mishra son of Late Prayag Mishra and grand son of Meghu Mishra and father of respondent nos. 7 and 8 filed suit bearing no. 80 of 2005 against Ganga Mishra son of Late Ram Sakhi Mishra and father of the petitioner herein and Devendra Mishra and Yamuna Mishra both the sons of Late Bachan Mishra before the Permanent Lok Adalat, Bahbhua regarding lands pertaining to RS Khata No. 52, Plot No. 1533, 1529, 154, 158, 812, 1460 etc., which was decreed on the basis of compromise between the parties and award was prepared allotting the share to respective parties as would manifest from the award dated 27.04.2005.

7. Learned Counsel for the petitioner next submits that when the petitioner came to know about the error committed in RS Khatiyen with respect to the land pertaining to Khata No. 55, Plot No. 1180 that the same is standing in the name of sole co-sharer, namely, Bachan Mishra, the petitioner filed a Consolidation Revision Case No. 63 of 2021 (Annexure-4) in the Court of Director Consolidation, Bihar, Patna. It is submitted that the Joint Director after hearing the parties allowed the Consolidation Revision Case No. 63 of 2021 by an order dated 11.02.2022 (Annexure-5) directing the Consolidation Officer, Bhagwanpur to

correct the consolidation record of rights of New Revisional Survey Plot No. 55 by deleting the existing name of entering the name of all the share holders equally.

8. Learned Counsel further submits that in pursuance of order dated 11.02.2022 passed in Consolidation Revision Case No. 63 of 2021, the Consolidation Officer on 26.04.2022 corrected the record of rights, as would manifest from the corrected consolidation record of rights annexed as Annexure-6.

9. It is submitted that respondent nos. 4 and 5 herein filed BLT Case No. 696 of 2022 assailing the order dated 11.02.2022 passed by the Joint Director Consolidation in Consolidation Revision Case No. 63 of 2021, on the plea that the land pertaining to Khata No. 55, Plot No. 1180, area 2 acres 23 decimal is the self acquired property of their father Bachan Mishra. Learned Counsel for the petitioner further submits that learned Judicial Member, BLT by his order dated 20.11.2024 passed in BLT Case No. 696 of 2022 set aside the order dated 11.02.2022 passed by the Joint Director Consolidation in Consolidation Revision Case No. 63 of 2021, which is impugned in the instant writ application without appreciating the facts of the case in its correct perspective. The learned Counsel for the petitioner submits that what is not in dispute rather stand admitted is that the petitioner and the private respondents are related to each

other being descendant of Meghu Mishra, who had 5 acres 23 decimal of land and after his death all his three sons jointly came in possession over the land in equal measure, but then the sons of Bachan Mishra have land in access to the tune of 2 acres 23 decimal, which is a joint family property, but then they claim that the said land is the self acquired property of Bachan Mishra and was not part of the coparcenary, but then no document was brought before the BLT by the respondent nos. 4 and 5 herein to substantiate that the land in dispute was self acquired property of their father Bachan Mishra.

10. The learned State Counsel vehemently rebuts the submissions made by the learned Counsel appearing on behalf of the petitioner after going through the order impugned. The learned State Counsel submits that Late Krishna Mishra had filed suit No. 80 of 2005 in which the father of the petitioner, namely, Late Ganga Mishra along with other were impleaded as defendants and the suit was filed for partitioning the land pertaining to Khata No. 52 only i.e. land pertaining to Khata No. 55, Plot No. 1180, area 2.23 acres was not the subject matter of partition in Suit No. 80 of 2005 which was decreed based on compromise without any objection from the father of the petitioner herein, which amply demonstrates that the land belonging to Khata No. 55, Plot No. 1180, area 2.23 acres was not the ancestral property of the family

rather was self acquired property of Bachan Mishra, father of respondent nos. 4 and 5 herein. It is further submitted that had the land in dispute been the ancestral property of the family, the same would have been included in TS No. 80 of 2005 in which the father of the petitioner was defendant. It is also submitted that had the land in dispute, inadvertently, been left out from Title Suit No. 80 of 2005 in that event father of the petitioner or the petitioner would have immediately resorted to legal remedies for rectifying the said mistake. It is also submitted that from perusal from the order impugned, it would manifest that the Consolidation Revision Case No. 63 of 2021 was filed by the petitioner herein after the death of his father, which casts an aspersion on his conduct for the reason that the father of the petitioner never raised any objection during his lifetime against the award of Permanent Lok Adalat. The learned State Counsel further submits that from perusal of page 3 of the order impugned, it would manifest that the learned Judicial Member, BLT had recorded that the petitioner did not appear in the said revision and without hearing the petitioner, the learned Joint Director Consolidation Headquarter, Bihar, Patna has been pleased to allow the revision case by order dated 11.02.2022. It is submitted that no doubt the said submission was recorded based on the submission made by the learned Counsel appearing on behalf of the petitioner before the BLT, but then in the instant

writ application, the said contention of the respondent nos. 4 and 5 herein i.e. petitioners before the BLT, has not been rebutted by the petitioner rather at Para 9 of the writ application, it has been pleaded that the order dated 11.02.2022 was passed by the Joint Director Consolidation, Headquarter, Bihar, Patna after hearing the respective parties, on which the learned Counsel for the respondent nos. 4 and 5 submits that in the said revision case there were other defendants also apart from respondent nos. 4 and 5. At this stage the learned Counsel for the petitioner fairly submits that respondent nos. 4 and 5 herein had not appeared in the revision case, thus, were not heard. It is next submitted that the learned Tribunal while allowing the BLT Case No. 696 of 2022 was of the view that the land in dispute was not part of the Title Suit No. 80 of 2005, further, neither the petitioner nor his father ever challenged the entry made in the Revisional Survey Khatian with respect to the land in dispute in the the name of Bachan Mishra the father of the respondent nos. 4 and 5 herein and after the death of the father of the petitioner, the petitioner after 15 years filed the Consolidation Revision Case No. 63 of 2021 which came to be allowed without hearing the respondent nos. 4 and 5 herein. The learned State Counsel, at this stage, submits that from the order dated 11.02.2022 passed by the Joint Director Consolidation, it would manifest that even limitation was not condoned and the

revision application filed after 15 years was entertained.

11. After hearing the learned Counsels for the parties, the Court is in complete concurrence with the submissions made by the learned State Counsel and thus does not find any infirmity in the order passed by the learned Judicial Member, BLT in BLT Case No. 696 of 2022, which is impugned in the instant writ application, as such the writ application is bereft of any merit and thus is dismissed.

(Satyavrat Verma, J.)

Jyoti Kumari/-

U			
---	--	--	--