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Bachchu Singh and ors Vs. State and ors

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Court : Patna

Decided On : Aug-30-2013

Appellant : Bachchu Singh and ors

Respondent : State and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case No.6960 of 1992 ========== 1. Bachchu Singh 2. Muni Singh 3. Ram Swarup Singh 4. Bhagwat Singh, all sons of Tunu Singh 5. Raghu Nandan Singh 6. Babu Chand Singh 7. Sidheshwar Singh, all sons of Garbhu Gope 8. Jamuna Gope son of Jageshwar Singh 9. Jadu Gope son of Ram Lal Gope 10. Radhey Singh son of Prabhu Gope 11. Ganga Gope son of Sheo Dayal Gope 12. Chandra Deep Singh 13. Mundrika Singh 14. Ramashish Singh, Sl. No. 12 to 14 are sons of Munshi Gope, all residents of village- Dhekaper, P.O. and P.S. Khodaganj, District- Nalanda. .... Petitioner/s Versus 1. The State of Bihar 2. The Joint Director Consolidation, Bihar, Patna.

3. The Deputy Director Consolidation, Patna.

4. The Consolidation Officer, Hilsa, Nalanda.

5. Baij Nath Singh 6. Chandraman Singh 7. Raj Nath Singh, sons of Keshwar Gope, all residents of village- Dariyapur, Tola Runganj, P.S. Ghoshi, District-

Gaya. .... Respondent/s

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Appearance : For the Petitioner/s : Mr. Amar Nath Singh For the Respondent No.1 to 4: None For the Respondent No. 5 to 7: None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA ORAL

JUDGMENT

Date:

30. 08-2013 Heard learned counsel for the petitioners. However, none appears on behalf of the respondent State of Bihar and its functionaries. Despite valid service of notice respondent no. 5 to 7 have also not chosen to appear in this matter to contest the claims raised on behalf of the petitioners. Patna High Court CWJC No.6960 of 1992 dt.30-08-2013 2/3 By the impugned order dated 30.01.1990 (Annexure-3) passed in Consolidation Revision Case No. 429 of 1979 along with Consolidation Revision Case No. 383 of 1980 by the respondent no. 2, in exercise of his powers under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short the Act), the claims of respondent no. 5 to 7 have been allowed with respect to the lands under dispute. Learned counsel for the petitioners submits that the impugned revisional order is an ex-parte order and the petitioners were not given reasonable opportunity of hearing by the respondent no.2, yet orders passed by the original authority and the appellate authority, which were in favour of the petitioners, have been set aside. As noticed above, none appears on behalf of the respondents. Even counter affidavit has not been filed on their behalf. On perusal of the impugned order dated 30.01.1990 (Annexure-3), this Court finds that the order is an ex-parte order and the petitioners were not heard before passing the final order. In the considered opinion of this Court, the petitioners are entitled to have one more opportunity to place their case before the revisional authority. For the reasons recorded above, impugned order dated 30.01.1990 (Annexure-3) passed in Consolidation Revision Case No. 429 of 1979 along with Consolidation Revision Case No. 383 of 1980 by the respondent no. 2, so far it relates to the petitioners, is hereby set aside and the matter is remitted back to the Director of Consolidation, Bihar, Patna for deciding

the case afresh by a reasoned and speaking order, after giving an opportunity of hearing to all concerned including the petitioners and the respondent no. 5 to 7. The application stands allowed to the extent indicated above. Patna High Court CWJC No.6960 of 1992 dt.30-08-2013 3/3 However, the parties are left to bear their own costs. (Birendra Prasad Verma, J) BTiwary/-

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