

Bishun Ram and ors Vs. State and ors

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Court : Patna

Decided On : Aug-23-2013

Appellant : Bishun Ram and ors

Respondent : State and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case
No.6460 of 1992

===== 1.
Bishun Ram 2. Tapeswar Ram, both sons of late Jitan Ram, resident of village-
Kusi, P.S. Aurangabad, District Aurangabad(Bihar) Petitioner/s Versus 1.
The State of Bihar through Secretary to Government of Bihar, Department of
Revenue and Land Reforms, Old Secretariat, Patna.

2. Joint Director of Consolidation, Gaya.

3. Ram Das Ram son of Jhakas Ram, resident of village Kusi, P.S. and District
Aurangabad (Bihar). Respondent/s

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Appearance : For the Petitioner/s : Mr. Ram Hriday Prasad For the Respondent
No.1 & 2: Mr. Rajesh Kumar Verma, SC-27, with Mr. R.K.Sharma, AC to SC-27
For the Respondent no.3 : Mr. Najmul Hoda

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA ORAL

JUDGMENT

Date:

23. 08-2013 By the impugned order dated 14.08.1991 (Annexure-1), Consolidation Revision Case No. 410 of 1990 filed on behalf of the respondent no.3 has been allowed and the orders passed by the Consolidation Officer, Aurangabad as also the appellate authority have been set aside. From the materials available on record, it appears that after publication of register of lands and the statement of principles under Section 10(1) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short the Act), no objection was filed by the petitioners under Section 10(2) of the Act. However, subsequently they filed a petition under Section 10-D of the Act before the Consolidation Officer, Aurangabad, giving rise to Case No. 451 of 1987 which was allowed by an order dated 06.10.1988 (Annexure-2). Patna High Court CWJC No.6460 of 1992 dt.23-08-2013 2/2 The scheme of the Act provides that if no objection is filed under Section 10(2) of the Act, then subsequently objections cannot be entertained and considered with respect to any entry made in the register of lands prepared under Section 9(2) or statement of principles prepared under Section 9A of the Act, and all subsequent objections are barred by Section 10-A of the Act. Section 10-D of the Act provides special power to Deputy Director of Consolidation for republication of register of lands and statement of principles, subject to fulfillment of conditions mentioned therein Section 10-D of the Act itself. The Consolidation Officer has not been vested with such power to entertain any petition under Section 10-D of the Act. Therefore, the order dated 6.10.1988 (Annexure-2) passed by the Consolidation Officer, Aurangabad in terms of Section 10-D of the Act was patently illegal. The appellate authority committed an error of law in not considering the aforesaid legal position and in dismissing the appeal preferred by the respondent no.3. In the aforesaid circumstances, the revisional authority has rightly passed the impugned order dated 14.08.1991 (Annexure-1) setting aside the patently illegal orders passed by the Consolidation Officer, Aurangabad as also by the Deputy Director of Consolidation, Gaya. In the aforesaid facts and circumstances, this Court does not find any good ground to interfere with the impugned order passed by the revisional authority. In the result, the application

has to fail and is, accordingly, dismissed. However, there shall be no order as to costs. (Birendra Prasad Verma, J) BTiwary/-

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