
(2007) 01 PAT CK 0144

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1541 of 1988

Champa Mishra and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 29-01-2007

Acts Referred:

Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 — Section 10, 10(2), 10(6), 10(7), 35

Citation : (2007) 2 BLJR 962 : (2007) 2 PLJR 766

Hon'ble Judges : J.N. Bhatt, C.J

Bench : Single Bench

Advocate : B.K. Shukla, for the Appellant; J.C. to G.P. 3, for the Respondent

Final Decision : Dismissed

Judgement

J.N. Bhatt, C.J.—By this writ petition under Article 226 of the Constitution of India, the petitioners have sought the following reliefs:

- (i) to quash the order dated 30.11.1987 passed by the Joint Director, Consolidation, in Revision No. 3117 of 1984, contained in Annexure 5;
- (ii) to quash the order dated 15.10.1984 passed by the Deputy Director, Consolidation, Bhojpur in Appeal No. 50/81-82, contained in Annexure 4;
- (iii) to quash the order dated 20.7.1981 in Case No. 19 of 1979-80 passed by the Consolidation Officer, Nawanagar, contained in Annexure 3; and
- (iv) to direct the respondent Nos. 1 to 4 to record R.S.P. 666 of Khata No. 19 measuring 22 decimals situated in village Ghorsari P.S. Navanagar, District Bhojpur in the name of the petitioners.

2. It is very clear from the aforesaid reliefs that the petitioners have challenged the three concurrent orders on (Sic) of the Revenue authorities recorded on facts, in terms of the provisions of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act XXII of 1956) (In short, the

Act), which received the assent of the President on the 6th September, 1956, by filing this writ application under the writ jurisdiction of this Court under Article 226 of the Constitution of India.

3. The writ, jurisdiction under Article 226 of the Constitution of India should not be converted into an appellate forum. The power of judicial review with the help of Article 226 of the Constitution of India, in one way very wide, would, ordinarily, be circumscribed in a case of concurrent findings of fact by the competent authorities. The main design and purpose of the provisions of Article 226 of the Constitution has been to see whether the concerned party is given a fair chance and opportunity of hearing and to see that his or her case, ordinarily, based on finding of facts, is not disturbed or interfered with by this Court under Article 226 of the Constitution of India. Simply because a better view could have been taken or that better qualitative order could have been passed on the basis of fact is no ground for interference. It is not the quality of the judgment but the decision making process itself which matters in judicial review in terms of the provisions of Article 226 of the Constitution of India. This circumscribed jurisdictional sweep should be kept in the mental radar while determining the disputed issues in writ jurisdiction.

4. It may be mentioned at this stage that the petitioners were allotted 22 decimals of Cadestral Survey Plot (CSP) No. 257 of khata No. 3 which is orchard as averred by them. Respondent 2nd party was allotted 33 decimals of C.S.P. No. 257, having mango trees in the said land during the survey revisional operation, C.S.P. No. 257 measuring 55 decimals of land has been recorded in the name of late Jawahar Mishra and R.S.P.No. 666 has been carved out of C.S.P. No. 257, as claimed in the petition. It is also true that the Consolidation Officer had directed to make a local inspection of the plot u/s 10(7) of the Act and the local inspection was made and report was submitted on 10.12.1980 in Case NO. 19 of 1979-80. It is alleged that in the said report, it is recorded that the petitioners are also co-sharers of the land in question which is orchard.

5. A petition was filed by the petitioners u/s 10(2) of the Act, raising objections in respect of disputing the correctness and nature of entries made in the record or in the statement of principals and upon consideration of the factual profile, the Consolidation Officer reached to a conclusion and decided against the petitioner in terms of the provisions of Sub-section (7) of Section 10 of the Act. The petitioners also lost in appeal u/s 10(6) of the Act and then before the Joint Director, Consolidation, u/s 35 of the Act unsuccessfully.

6. This Court has been taken through the relevant provisions of the Act. Objection raised against the survey was not accepted by the three revenue authorities on finding of facts. Bearing in mind the limited scope of jurisdiction, of the Court under Article 226 of the Constitution of India, the concurrent findings of fact could not be reversed or interfered with unless the established principles are spelt out or shown to the satisfaction of the Court which are non-existent in the present case.

7. In the result, this writ application shall stand dismissed leaving the parties to bear their on costs. Rule is discharged.