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**(2006) 04 PAT CK 0073**  
**In the Patna High Court**  
**Case No : CWJC No. 4631 of 2000**

Kishori Rai and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 27-04-2006

**Acts Referred:**

Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 — Section 35

**Citation :** (2007) 3 PLJR 295

**Hon'ble Judges :** S.K. Katriar, J

**Bench :** Single Bench

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## Judgement

S.K. Katriar, J.—Heard Mr. Shree Nandan Singh for the petitioners, and Mr. Abbas Haider for respondents Nos. 6(i) to 6 (vi). This writ application is directed against the order dated 3.11.99 (Annexure 3), passed by the Deputy Director, Consolidation, Headquarters, Bihar, Patna, in Consolidation Revision No. 582/92 (Siya Ram Rai vrs. Kishori Rai) in purported exercise of power u/s 35 of the Bihar Consolidation of Holding and Prevention of Fragmentation Act. I have perused the materials on record and considered the submission of Learned Counsel for the parties. It appears to me that the appellate order dated 20.7.92 (Annexure 2) was passed in Appeal Case No. 47/92 by learned Deputy Director of Consolidation, Vaishali. The revisional order has also been passed by the Deputy Director of Consolidation, Headquarters. The impugned order suffers from two vices. Law is well settled that an appeal or revision lies before a higher authority, whereas a review lies before the same authority. The appellate order having been passed by an officer of the rank of Deputy Director, revisional order could not have been passed by an officer of the same rank. Furthermore law is well settled that the powers of revision u/s 35 of the Act vested in the Director of Consolidation in exercise of his discretion delegated the same to an officer not below the rank of Joint Director of Consolidation. The impugned order is, therefore, set aside. The matter goes back on remand to the Director of Consolidation for a fresh decision in accordance with law.

2. The writ petition is accordingly disposed.