
(2004) 04 PAT CK 0046
In the Patna High Court
Case No : C.W.J.C. No. 4898 of 1992

Mithilesh Kumar Sinha and Another	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 — Section 5

Citation : (2004) 3 PLJR 327

Hon'ble Judges : S.N. Hussain, J;Nagendra Rai, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the parties.
2. This writ application is directed for quashing the order dated 26.12.1991 passed by the Collector Vaishali, by which the Collector has allowed the application filed Respondent No. 3 Umdabati Devi and cancelled the deed of gift executed by Shivtara Kuer in favour of her nephews Mithilesh Kumar Sinha and Pushkar Kumar sinha (the Petitioners herein) by registered d of gift dated 28.11.1990 on the ground that the same has been executed without (sic) permission/sanction as provided u/s 5 of the Bihar Consolidation of holdings and Prevention of Fragmentation-Act, 1956, hereinafter referred to as the Act.
3. It is submitted on behalf of the Petitioners that the permission was granted with regard to larger plots covered by the (sic) of gift and the Collector has committed serious error of record in holding that (sic) deed of gift was executed without the permission of the authority.
4. From perusal of the petition filed by Respondent No. 3 as well as the counter (sic), it is clear that the permission has (sic) granted with regard to all the plots (sic) the lands of some of the plots. (sic) the Collector has not applied his (sic) in cancelling the deed of gift. In case is found that permission has been ob-(sic) with regard to all the plots covered (sic) deed of gift, then there is no question of

cancelling the deed of gift. In case is found that permission was granted with (sic) to some of the plots only, then the (sic) of gift is to be declared as void to the (sic) it relates to the land for which permission was not obtained.

5. In view of the admitted position that sanction order with regard to certain plots was obtained, we are of the view that the Collector has not considered the matter in right prospective. Accordingly, the impugned order is set aside and the matter is remitted to the Collector to decide the matter afresh in the light of the observations made above.

6. In the result, this writ application is allowed.