
(2015) 06 PAT CK 0008

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4982 of 1995

Ram Tahal Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-06-2015

Acts Referred:

Citation : (2015) 06 PAT CK 0008

Hon'ble Judges : N.P. Singh, J

Bench : Single Bench

Advocate : Anish Chandra Sinha, for the Appellant; Keshav Srivastava and Bhubneshwar Prasad, Advocates for the Respondent

Final Decision : Allowed

Judgement

Navaniti Prasad Singh, J.

1. Heard learned counsel for the petitioners and learned counsel for the private respondents.

2. The petitioner, by this writ petition, has challenged the order dated 08.07.1994 passed by the Director (Consolidation), Bihar, Patna in Revision Case No. 2446 of 1988 (Annexure 2) by which he has transferred the revision application to the Principal, Training Institute (Consolidation), Bihar, Patna being contrary to the order of the Division Bench of this Court passed in CWJC No. 6071 of 1992 dated 13.05.1993 (Annexure 4) and the consequential order passed by the Principal, Training Institute (Consolidation), Bihar, Patna dated 19.01.1995 passed in Revision Case No. 2446 of 1988.

3. Though the facts are long and spread over several decades, the material facts are short. There was a family descending from Bhola Lal as per genealogy given as Annexure 12. He had two sons, Thakur Lal and Bisheshwar Lal. The later died issueless. Thakur Lal had three sons. Ramdeni Lal, Shokhi Lal and Munna Lal. Shokhi Lal died issueless. From the branch of Ramdeni Lal, there were three sons, namely, Chedi Lal, Guru Lal who died issueless and Harnarain Lal. From

Munna Lal, there was one son Hit Narain Lal. Harnarain Lal had one son Anjani Kumar Sinha. Hit Narain Lal had four sons, Praduman Lal, Brij Bihari Prasad, Madheshwar Prasad, Rameshwar Prasad. The dispute essentially is between Anjani Kumar Sinha and Hit Narain Lal.

4. It appears that as per revisional survey, there were certain lands admeasuring over 10 acres which were jointly standing in the names of Anjani Kumar Sinha and Hit Narain Lal. They had half-half interest in the aforesaid. It was, accordingly, entered into the land revenue records as per survey. From the sons of Hit Narain Lal, the petitioners had purchased about 2.27 acres of land. It appears, in the village, consolidation proceedings were notified in the year, 1970 in terms of Section 3 of the Consolidation Act. Anjani Kumar Sinha, being fully aware of the said notification, in 1974, filed an application before the authorities under Section 106 of the B.T. Act for purported correction of entries in the land registered which was allowed. The vendors of the petitioners appear to have been made parties in those proceedings. In those proceedings, the land registered was altered. Based on that, Anjani Kumar Sinha then moved the consolidation authorities under Section 10(b) of the Consolidation Act for correction of records. It may be noticed that in the meantime, petitioners having purchased the lands by registered sale deed, after due permission of the consolidation authorities, have got their names already mutated in the records. This is what was then challenged under Section 10(b) by Anjani Kumar Sinha and others. In these proceedings under Section 10(b), petitioners were not made parties. However, these proceedings were decided in favour of petitioners' vendors but Anjani Kumar Sinha went in appeal. In the appellate proceedings, petitioners' vendors were made parties and they, being aggrieved by the appellate order, approached this Court in a writ petition which was withdrawn. In none of those proceedings, the petitioners, who had already purchased part of the property, were made parties. Petitioners, coming to know of this, filed a revision application before the Director (Consolidation) which was dismissed. Being aggrieved, they came to this Court in CWJC No. 6071 of 1992. This Court, noticing the facts, set aside the order of the Director (Consolidation) by judgment and order dated 13.05.1993 (Annexure 4) and remanded the matter before him for hearing. Instead of hearing himself, he, by Annexure 2, transferred the matter to the Principal, Consolidation Training Institute, Bihar who has ultimately decided the matter as against the petitioners by Annexure 1.

5. Apart from others, there were two issues raised before the Principal. Firstly, that the whole proceedings, as initiated by and the claim of the respondent Anjani Kumar Sinha and others descending for him was based on an order passed by authorities under Section 106 of the B.T. Act correcting the name of the landholder in the survey records. This could not be done after consolidation proceedings had been notified under Section 3 of the Consolidation Act, in view of Sections 4(b) and 4(c) of the Consolidation Act. It is submitted that in view of Sections 4(b) and 4(c), no proceedings could be initiated and any proceeding pending would abate after consolidation proceedings started. It is submitted on

behalf of petitioners that, admittedly, the proceedings under Section 106 of the B.T. Act, as initiated by the contesting private respondents, was wrong after consolidation proceedings started. Thus, the proceedings under Section 106 were void. Unfortunately, the Principal, by the impugned order, has stated that nothing has been shown as to how Sections 4(b) or 4(c) of the Consolidation Act have been violated. This Court fails to understand. Sections 4(b) and 4(c) of the Consolidation Act, in clear terms, state that once consolidation proceedings in terms of Section 3 notification under the Consolidation Act started, no Court could entertain any proceeding with regard to the land records and all proceedings pending in Court or any authority would abate. Thus, the authorities had no jurisdiction under Section 106 of the B.T. Act to entertain any application. If that order is set aside then all the subsequent orders of the consolidation authorities based on the said order would automatically fall.

6. The second contention was that the Principal had noted in the order that Hit Narain Lal had sold more land than what he was entitled. It is submitted that this is factually wrong inasmuch as per the survey entry, the land in question was more than 10 acres. If it is divided between Anjani Kumar Sinha and Hit Narain Lal in equal proportion, Hit Narain Lal would have had more than five acres. His son had sold to the petitioners only about 2.27 acres.

7. Thus, the order of the Principal, Consolidation Training Institute, Bihar, Patna was wrong and needs interference. All that the contesting respondents submit that they had made an application for Tarmim (amendment) to the authorities under Section 106 of the B.T. Act and, as such, those proceedings were not barred in any manner by Sections 4(b) or 4(c) of the Consolidation Act.

8. Having considered the matter, I failed to appreciate the submission on behalf of the contesting respondents. What is contemplated by Sections 4(b) or 4(c) of the Consolidation Act is that no authority or for that matter, Consolidation Court would deal with the matters of right, title and interest in respect of land which is covered by consolidation proceedings. Surely, an attempt to get an amendment in the land records has the direct effect on consolidation proceedings. That is what is specifically prohibited by Section 4(b) of the Consolidation Act. May be called Tarmim or otherwise, it would be in teeth of Section 4(b) of the Consolidation Act and the order passed under Section 106 of the B.T. Act would, thus, be invalid. If that be so then all the orders, as obtained by the contesting respondents based on such an order now by the Consolidation authorities under Section 10(b) and, thereafter, under Section 35 would be bad. If the foundation falls, the superstructure cannot stand.

9. Thus, on this finding alone, the order of the Principal, Consolidation Training Institute, Bihar, Patna dated 19.01.1995 passed in Revision Case No. 2446 of 1988 (Annexure 1) cannot be sustained. It is quashed accordingly. The writ petition is allowed.