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**(2006) 11 PAT CK 0165**

**Patna High Court**

**Case No:** LPA No. 44 of 2004

Ram Singhasan Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision:** Nov. 10, 2006

**Acts Referred:**

- Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 - Section 10B, 4(c)

**Citation:** (2007) 1 PLJR 604

**Hon'ble Judges:** Narayan Roy, J; Abhijit Sinha, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

1. Heard Mr. Arun Prasad Ambastha, learned counsel for the appellant, and Mr. K.N. Choubey, learned senior counsel for the contesting respondents. Delay in filing this appeal is condoned.

2. This appeal is directed against the order dated 24.10.2003 passed in C.W.J.C. No. 2862 of 2000 passed by a learned single Judge of this Court.

3. According to the case of the appellant, a piece of land measuring 2.61 acres was settled to him, as he was an ex-army personnel, by virtue of settlement dated 22.10.1981 by the order of the Collector of the District and he, accordingly, came in possession of the same. The contesting respondents, however, came to this Court in C.W.J.C. No. 2862 of 2000 challenging the order passed by the consolidation authorities, as contained in annexure 4 dated 28.1.2000 and the writ application aforesaid was disposed of giving rise to the impugned order.

4. According to the case of the contesting respondents, the land in question was recorded in the name of their ancestors, but due to inadvertence a portion of land

was recorded in revisional survey as Gair Awad Bihar Sarkar, for which Title Suit No. 175 of 1976 was filed by the contesting respondents, which, ultimately, abated u/s 4(c) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter to be referred to as "Act") as consolidation proceeding was in operation in the District in question. The contesting respondents then filed objectionr, under section 10-B of the Act before the Consolidation Officer, which was disposed of on 18.5.1981 setting aside the entry made in the name of the State of Bihar, so far the part of the land was concerned, which became final. It is also the case of the contesting respondents that no appeal, whatsoever, was filed by the State authorities against the order passed by the consolidation officer dated 18.5.1981. Accordingly, the learned single Judge of this Court, regard being had to the facts and circumstances of the case, held that the land in question belonged to the contesting respondents and the settlement of the part of the land made in favour of the present appellant was invalid and the same, accordingly, was set aside.

5. Mr. Ambastha, learned counsel for the appellant, when questioned as to his legal right to the land in question, could not give any satisfactory explanation save and except that by virtue of settlement a right was conferred on him, but, at the same time, he could not rebut the question that the land subsequently was recorded in the name of the contesting respondents, as the entry made in the name of the State of Bihar was set aside.

6. Basic question now remains as to the entitlement of the appellant, so far the land in question is concerned.

7. According to the findings recorded by the learned single Judge, no right, whatsoever, was conferred upon the appellant to claim the land in question, as private individual's land could not have been settled under any of the provisions of the Act to an ex-army personnel.

8. We are satisfied from the materials on record that the land in question never belonged to the State of Bihar after the order passed by the consolidation officer dated 18.5.1981.

9. For the reasons aforementioned, therefore, we do not find any merit in this appeal. It is, accordingly, dismissed.