

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4351 of 2008

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1. Sadique Ansari S/o Late Liakat Ansari, Secretary, Masjid Committee, Molour, P.S.Charpokhari, District Bhojpur
 2. Nabi Bux Ansari S/o Dil Mohammad Ansari, R/o village Chand Dihari, P.S.Charpokhari, District Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
 2. Director, Consolidation, Bihar, Patna
 3. Deputy Director, Consolidation (Rohtas) Head Office, Patna
 4. Deputy Director, Consolidation, Bhojpur, Arrah
 5. Consolidation Officer, Charpokhari, Bhojpur, Arrah
 6. Hafiz Ansari
 7. Masjid Ansari
- Both 6 & 7 sons of Late Roza Mian and residents of village Molour, P.S.Charpokhari, District Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhruv Narayan, Sr. Advocate
Mr. Abhishek, Advocate

For the Respondent Nos. 1 to 5: Mr. P.N. Shahi, AAG 10
Mr. Lala S.N. Rais, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

11 22-12-2015

By order dated 26.08.2013, the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna as also the Director of Consolidation, Bihar, Patna were called upon by this Court to file their comprehensive counter affidavits answering all the issues indicated in the aforesaid order dated 26.08.2013, particularly in paragraph 16 of the aforesaid order. Since the offices of the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna as also the Director of Consolidation, Bihar, Patna are held by one and common Officer namely, Sri Vyas Ji; therefore, in compliance of the aforesaid order and direction, a combined comprehensive counter affidavit was filed, which was duly sworn by the Principal



Secretary, Department of Revenue and Land Reforms, Bihar, Patna. Subsequently, a supplementary counter affidavit was filed on behalf of the respondent nos. 1 and 2, which was also sworn by the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna supplementing the facts stated in the previous counter affidavit. The subsequent developments which had taken place in the context of the averments made in the aforesaid counter affidavit, particularly in paragraph 13 of the main counter affidavit, were not brought on the record; therefore, in compliance of the order dated 16.12.2015 passed by this Bench, another supplementary counter affidavit was filed yesterday i.e. 21st December, 2015, which has also been sworn by the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.

2. In view of the averments made in the aforesaid counter affidavit as also supplementary counter affidavit (s), referred to above, this Court is of the opinion that further monitoring is not required with respect to the issues indicated in the aforesaid order dated 26.08.2013. However, the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna is directed to carry out the undertakings/assurances given in the aforesaid counter affidavit as also the supplementary counter affidavits, which were duly sworn by him and all appropriate and prompt actions shall be taken by him for issuance of notification (s) under Section 26A of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short, the Act, 1956”) once fresh map and records are prepared and certificate of transfer are issued to the Raiyats with respect to any village/unit under the scheme of the

Consolidation, as contemplated under the provisions of the Act, 1956.

3. Now, coming to the merits of the case, the petitioners are aggrieved by the order dated 28.09.2007 passed in Consolidation Revision Case No. 73 of 1997 by the respondent Director of Consolidation, Bihar, Patna (Annexure-5) whereby the aforesaid consolidation revision case filed on behalf of the petitioners under Section 35 of the Act, 1956 has been dismissed and the orders passed by the original authority as also the appellate authority have been affirmed.

4. Indisputably, the petitioners do not claim any legal right over the lands in question bearing C.S.Khata No. 144 appertaining to C.S.Plot No. 1710 corresponding to R.S.Plot No. 2073 area 09 decimals, which has been recorded as “Gair Mazarua Aam as Masjid (Mosque)”, but in the remarks column one Roza Mian, father of the respondent nos. 6 and 7, have been shown in illegal possession. Admittedly, the objection raised on behalf of the petitioners with respect to the aforesaid entry in the remarks column has been rejected by all three Consolidation authorities, namely, the Consolidation Officer, Charpokhari by order dated 30.11.1979 passed in Consolidation Case No. 48 of 1978-79, as contained in Annexure-1, the appellate authority namely, the Deputy Director of Consolidation, Bhojpur, Ara by order dated 25.01.1997 in Appeal Case No. 1 of 1996-97, as contained in Annexure-2, and by the revisional authority i.e. the Director of Consolidation, Bihar, Patna by the impugned revisional order dated 28.09.2007 passed in Consolidation Revision Case No. 73 of 1997, as contained in Annexure-5.

5. Learned counsel appearing on behalf of the

petitioners though has argued the matter at some length, but he has not been able to point out any procedural error or legal infirmity in the orders impugned. He has also not been able to show that the petitioners have any legal right over the lands in question.

6. In above view of the matter, particularly, in view of concurrent findings of facts recorded by all the three authorities, this Court does not feel persuaded to interfere with the orders impugned. In the result, the writ petition has to fail and is, accordingly, dismissed, but without costs.

7. However, once a notification under Section 26A of the Act, 1956 is issued, the petitioners, if so advised, shall be at liberty to approach the appropriate Forum/Court for grant of appropriate relief (s).

(Birendra Prasad Verma, J)

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