

Rauf Khan son of
District Rohtas

1. The State of
2. Director of
3. Deputy As
4. Shri Bhanu
5. Most. Phul
6. Harbansh M
7. Sadhu Sara
8. Manoj Kur

.... Petitioner/s

1. The State of Bihar
2. Director of Consolidation, Bihar, Patna.
3. Deputy Assistant Director of Consolidation, Rohtas at Sasaram.
4. Shri Bhanu Pratap Singh, Consolidation Officer, Chenari, Rohtas.
5. Most. Phulmati Singh wife of Late Ram Prasad Singh.
6. Harbansh Narayan Singh
7. Sadhu Saran Singh.
8. Manoj Kumar Singh.
9. Sunil Kumar Singh, sons of late Ram Prasad Singh, all residents of Village Kumhau, P.O. More Sarai, P.S. Sheo Sagar, District Rohtas.
10. Smt. Sukumari Devi daughter of late Ram Prasad Singh and wife of Sri Birendra Pratap Singh, resident of village Pandaura, P.O. Chandauli, District Varansi.
11. Smt. Manju Devi daughter of Late Ram Prasad Singh, wife of Santosh Kumar Singh, village Jewari P.O. Jewari, P.S. Said Raja, District Varanasi.
12. Sandhya Devi Daughter of Late Ram Prasad Singh wife of Sri Babban Singh, resident of village Hata, P.O. and P.S. Chenari, District Rohtas.
13. Sanju Kumari, daughter of late Ram Prasad Singh, resident of Village Kumhau, P.O. More Sarai, P.S. Sheo Sagar, District Rohtas.
14. Mon Murat Devi wife of Late Sita Ram Singh.
15. Vina Singh daughter of Late Sita Ram Singh wife of Nagendra Singh, both of Village Hata, P.O. Chenari, P.S. Chenari, District Rohtas.
16. Shaligram Singh
17. Basudeo Singh, sons of Late Kapil Deo Singh.
18. Most. Subash Devi wife of Late Parsuram Singh.
19. Satendra Narayan Singh.
20. Swayam Prakash Singh, sons of late Parsuram Singh, sons of Late Parsuram Singh, all residents of village Hata, P.O. and P.S. Chanari, District Rohtas.
21. Md. Sajjad Beg son of Late Ali Hussain Beg.
22. Suleman Beg son of Late Ali Hussain Beg, resident of village Langi, P.O. & P.S. Chenari, District Rohtas.

.... Respondent/s

For the Petitioner/s : Mr. K.N. Chaubey, Sr. Adv.
Mr. Ambuj Nayan Chaubey
Mr. Ashok Kumar garg
Mr. Dineshwar Pandey
Mr. Akhilesh Kumar Pandey

For the Respondent No.1 to 3: Mr. Amresh, AC to SC 11

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 11-08-2015

Heard.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of order dated 17.08.1995 (Annexure-3) passed in Chak Case No. 215 of 90-91/ 96 of 91-92 by the respondent Consolidation Officer, Chenari, District Rohtas, whereby aforesaid consolidation case was dropped purportedly on the ground that a notification under Section 4A of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (In short 'Consolidation Act') has been issued with respect to mauza in question.

3. Learned senior counsel appearing on behalf of the petitioner submits that in earlier round of consolidation proceedings the orders were passed by the original authority, the appellate authority as also the revisional authority under the provisions of the Consolidation Act with respect to the lands under dispute between the parties, and ultimately the matter had travelled to this Court in C.W.J.C. No. 1721 of 1994 and C.W.J.C. No. 1723 of 1994 at the behest of the present writ petitioner. It is contended that the aforesaid two writ petitions filed on behalf of the petitioner were finally allowed by separate orders dated 22.03.1995 (Annexure-2) and 27.03.1995 (Annexure-2/A) by a Bench of this Court, and after setting aside all the orders passed by the original authority, appellate authority as also the revisional authority under the provisions of the Consolidation Act, the matters were remitted back to the respondent Consolidation Officer, Chenari with a direction to decide the dispute between the parties afresh strictly in accordance with law. The grievance of the writ petitioner is that despite the aforesaid orders, as contained in Annexure-2 and 2/A, passed by this Court, the respondent Consolidation Officer, Chenari, Rohtas by his impugned order dated

17.08.1995 (Annexure-3) has dropped the entire consolidation proceeding on the ground of issuance of a notification under Section 4A of the Consolidation Act with respect to Mauza in question. According to the learned senior counsel, the impugned order is not sustainable and is liable to be set aside by this Court.

4. This matter was earlier heard on 04.08.2015 and in the light of the directions issued by this Court, a supplementary affidavit on behalf of the petitioner has been filed today during the course of hearing of this case, which has been taken on the record. In the aforesaid supplementary affidavit it has been asserted that all the notifications issued under Section 4A of the Consolidation Act including that with respect to mauza in question were subsequently quashed and set aside by an order passed by this Court. In para-8 of the aforesaid supplementary affidavit, it has further been stated that in the light of the judgment and order passed by this Court and affirmed by the Hon'ble Apex Court, the Consolidation operation is going-on in the block of Chenari in the district of Rohtas, apart from other part of the State. The notification dated 15.03.2004 issued by the State Government cancelling altogether 18 notifications issued under Section 4A of the Consolidation Act has been brought on record as part of Annexure-4 series.

5. Learned State counsel appearing on behalf of the respondent no. 1 to 3, on instructions, submits that in the light of the aforesaid notification dated 15.03.2004, referred to above, the consolidation proceeding is going on in the area in question. He has fairly conceded that in view of the aforesaid notification, the matter may be remitted back to the respondent Consolidation Officer with a direction to proceed in the matter afresh.

6. In the present matter notices were issued to the private



respondent no. 4 to 22 by order dated 24.11.1998 passed by a Bench of this Court. However, despite valid service of notice, for the reasons best known to them, they have chosen not to appear and contest the present matter. It is also to be noted that no counter-affidavit has been filed on behalf of the respondent no.1 to 3 either controverting the averments made on behalf of the petitioner. In the aforesaid factual matrixes, averments made in the writ petition as also the supplementary affidavit filed on behalf of the petitioner have to be accepted to be correct.

7. In above view of the matter, this Court is of the opinion that the order impugned, as contained in Annexure-3, cannot be sustained in law and consolidation proceeding between the parties is required to be decided afresh strictly in accordance with law particularly in the light of remand orders made by this Court vide orders as contained in Annexure-2 and 2/A, as admittedly, a notification issued under Section 4A of the Consolidation Act regarding mauza in question was nullified subsequently.

8. For the reasons recorded above, the impugned order dated 17.08.1995 (Annexure-3) passed in Chak Case No. 215 of 90-91/ 96 of 91-92 by the respondent Consolidation Officer, Chenari, District Rohtas is hereby set aside and quashed, and the matter is remitted back to the Consolidation Officer, Chenari, Rohtas with a direction to proceed further in the matter and decide the claim of the parties in accordance with law. However, before passing any final order, since the matter is very old, he shall issue fresh notice to all concerned including the respondent no. 5 to 22, and only after service of notice or their appearance, whichever is earlier, the matter shall be decided afresh in accordance with law. The parties shall be at liberty to raise all the issues of facts and law, which are available to them,

before the Consolidation Officer, Chenari, Rohtas.

9. The writ petition stands allowed to the extent indicated above. The parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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