

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1561 of 2014

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Shri Bhagwan Singh & Ors

.... Petitioner/s

Versus

Ramashrey Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 11-12-2015 Heard learned counsel Mr. Ramchandra Singh for the
petitioners.

2. The court below has rejected the application filed by the petitioners praying that the suit may be dismissed on the ground that notification under Section 3 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 has already been issued and till there is no denotification under Section 26A of the Consolidation Act.

3. From perusal of the impugned order dated 07.11.2013 passed by Subordinate Judge-3, Sasaram in Title Suit No.392 of 1999, it appears that the court below found that issues have already been framed in the case and earlier the petitioners have filed same application before the court below which was rejected and thereafter the petitioners filed C.W.J.C. No.4096 of 2012 before the High Court and this court by terms of order dated

12.04.2012 permitted the writ application to be withdrawn with liberty to file a fresh application. According to the impugned order, the same application with same statements has again been filed by the petitioners and, therefore, the court below has rejected the said application.

4. It appears that the suit was filed for declaration of title and for grant of injunction. It may be mentioned here that the issues have already been framed and under Section 4(c) of the Consolidation Act there is no automatic abatement. For that an order of the Court is required to be passed. So far this question is concerned, it is a pure question of law and it is based on facts. Therefore, the court below has rightly rejected the application and for deciding at this stage the same may be decided along with other issues after perusal of the evidence.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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