

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10953 of 2014**

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1. Mohan Lal son of Late Ram Sigasan Lal Resident of village - Dhuraki, P.S. Dinara, District - Rohtas at present residing at near Gandhi Memorial College, Kochas, P.S. Kochas, District - Rohtas.

.... .... Petitioner/s

Versus

1. The State of Bihar .
2. The Chief Secretary, Government of Bihar, Patna.
3. The District Collector, Rohtas at Sasaram.
4. The Circle Officer, Kochas, P.S. Kochas, District - Rohtas.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ras Bihari Thakur, Adv.

For the Respondent/s : Mr. Jai Shankar Barnwal, GA-5

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**ORAL ORDER**

7      05-01-2015      Heard Mr. Ras Bihari Thakur, learned counsel for the petitioner and Ms. Nutan Sahay learned A.C. to G.A. 5 for the State.

The limited relief prayed by the petitioner in this writ petition, is an appropriate direction in the nature of mandamus commanding the respondent authorities in the District of Rohtas to refrain from making any construction over the land of the petitioner bearing Khata No. 45 Plot No. 182 having an area of 15 decimals situated in Village Hetampur, Circle Office Kochas in the District of Rohtas.

It is the case of the petitioner that the plot in question admeasures 75 decimals and through various registered sale deeds



executed by the ex intermediary Gobind Prasad Singh, it was sold in favour of several persons, one of whom was the vendor of the petitioner namely, Hira Singh. It is further his case that since the plot in question was incorrectly recorded in the Survey records that an appropriate application under Section 10(b) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 was moved by the vendor of the petitioner namely Hira Singh giving rise to Case No. 134 of 1986-87. The Consolidation Officer, Kargahar, Rohtas vide order dated 22.6.1987 confirmed the title of the Hira Singh over several plots one of which is the plot in question bearing Plot No. 182 admeasuring 15 decimals and which plot finds mentioned at page 2 of the order placed at Annexure-10 of the supplementary affidavit filed on behalf of the petitioner. It is clearly mentioned by the Consolidation Officer that the State Government upon considering the raiyati right of the ex Jamindar Gobind Prasad Singh, had fixed the Jamabandi against his name and whereafter, no proceeding under Section 4(h) of the Bihar Land Reforms Act, 1950 was ever moved for setting aside the settlement. It is further held in the order that in the circumstances reflecting the State Government cannot claim that the land had vested in them consequent, upon the abolition of Jamindari. It is also mentioned in the order that the State



Government who was a party to the proceeding failed to produce any records in support of the stand that the land vested in the State Government rather it is the vendor of the petitioner who placed on record several documents to support his title over the land. The land in question bearing Khata No. 45, Plot No. 182 to the extent of 15 decimals was purchased by the petitioner through a registered sale deed dated 2.11.1993 placed at Annexure-11 to the supplementary affidavit.

In view of the order passed by the Consolidation Officer in Case No. 134 of 1986-87 dated 22.6.1987 confirming the title of the vendor of the petitioner Hira Singh over the plot in question and which order still governs the field, the title of the petitioner as a successor- in- interest would remain intact and consequently the nature of the land would be raiyati and thus any attempt by the respondents to interfere with the possession of the petitioner over the said lands without following the due process of law would be illegal.

Learned counsel for the State has submitted that steps have been taken to challenge the order of the Consolidation Officer placed at Annexure-10 before a superior forum but such stand cannot vest any jurisdiction in the State to interfere with the raiyati rights of the petitioner. An issue which stands concluded as back

as in 1987, the State has woken from slumber after 27 years.

Though learned State counsel while relying upon the averments made in the counter affidavit filed by the Circle Officer has tried to contest the position but in view of the order of the Consolidation Officer placed at Annexure-10 of the supplementary affidavit, the contest becomes unsustainable.

In the circumstances discussed and in view of the order passed by the Consolidation Officer in Case No. 134 of 1986-87 placed at Annexure-10 to the supplementary affidavit, confirming the title of the vendor of the petitioner over the land in question, the respondent authorities of the District of Rohtas have no jurisdiction to construct any building over the land of the petitioner, the details whereof is given hereinabove.

The writ petition is allowed and the respondent authorities including the District Magistrate-cum-Collector, Rohtas as well as the Circle Officer, Kochas District Rohtas are directed to stop the proposed construction forthwith over the land of the petitioner bearing Khata No. 45 Plot No. 182 having an area of 15 decimals and any such constructions made over the land of the petitioner should be removed forthwith.

The writ petition is allowed.

Bibhash/-

**(Jyoti Saran, J)**

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