

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6806 of 2006

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Gariban Sao son of Late Bhun Sao, resident of Village- Mahuawan, P.S.
Amas, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Joint Director, Consolidation, Gaya.
3. Lakshminia Devi, wife of Ram Das Dusadh, resident of Mohalla- Dak
Bungalow, P.S. & P.O. Sherghati, District- Gaya.
4. The Collector, Gaya.
5. Kishori Sao, son of Mahadeo Sao, resident of Mohalla- Gola Bazar, P.S.
Sherghati, District Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Adv.
Mr. Md.Anisur Rahman, Adv.

For the Respondent No.1, 2 and 4: Mr. Sunil Kumar Mandal, SC-3
Mr. Arjun Prasad, AC to SC-3

For the Respondent No. 3 : Mr. Dhruv Narayan, Sr. Adv.
Mr. Abhishek, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 11-08-2016

Heard the parties.

The petitioner is aggrieved by the order dated 10.3.2006 passed in Consolidation Revision Case No. 9 of 2005 by the respondent Joint Director of Consolidation, Gaya, as contained in Annexure-1, whereby the aforesaid revision case filed on behalf of the petitioner straightaway under Section 35 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short Consolidation Act), has been dismissed.

Though, the learned counsel appearing on behalf of the petitioner argued the matter at some length, but he has fairly conceded that no objection petition under Section 10(2) of the Consolidation Act was filed on behalf of the petitioner before the concerned Consolidation Officer with respect to the lands in question. He also conceded that no appeal was preferred on behalf of the petitioner before the prescribed appellate authority, but straightaway petition under Section 35 of the Consolidation Act

was filed by the petitioner before the Revisional authority raising his claim with respect to the lands in question, but that has been dismissed by the impugned revisional order dated 10.3.2006 (Annexure-1).

The learned counsel appearing on behalf of the respondents have opposed the prayer made in the present writ petition, but they are not in a position to inform the Court that the notification under Section 26A of the Consolidation Act has been issued by the State Government closing the consolidation operations in the unit in question.

In view of nature of claims raised on behalf of the petitioner with respect to the lands in question and in view of nature of controversy between the parties, this Court is of the opinion that the dispute cannot be effectively decided without recording evidence of the parties, which cannot be done in a proceeding under Article 226 of the Constitution of India.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to file an appropriate civil suit for grant of appropriate relief(s) with respect to the lands in question before the civil court of competent jurisdiction once the notification under Section 26A of the Consolidation Act is issued by the State Government closing the consolidation operations in the unit in question.

It is clarified that if such a civil suit is brought by the petitioner after impleading all the necessary parties including the private respondents or in case of death of some of them, their heirs and legal representatives, then the same shall be decided on its own merits strictly in accordance with law on the evidence/material produced by the parties, and in such a civil suit the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question.

The writ petition stands finally disposed of with above

observations/ directions.

(Birendra Prasad Verma, J)

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