

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15320 of 2014

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Sita Ram Mehta & Ors

.... Petitioner/s

Versus

Kailu Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Krishna

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 10-02-2016 1. Heard the learned counsel, Mr. Ravi Bhushan Prasad,

for the petitioner on the interlocutory application No.6897 of

2015.

2. At the time of hearing of this interlocutory application,

the learned counsel submitted that he may be heard on merit in

admission matter itself and accordingly I heard him on merit in

admission matter.

3. This application under Article 227 of the Constitution of

India has been filed by the defendant petitioner for setting aside

the order dated 10.06.2014 passed by Sub Judge-III, Supaul in

Title Suit No.66 of 1997 whereby the Court below rejected the

application filed by the petitioner for abatement of the said title

suit on the ground mentioned in Section 4(C) of the Bihar

Consolidation of Holdings and Prevention of Fragmentation Act,

1956. According to the learned counsel, still today no denotification has been issued under Section 26(A) of the said Act. But the Court below rejected the application on the ground that the Civil Court has the jurisdiction to decide the suit.

4. Perused the order passed by the Court below. Section 4(C) provides that **every proceeding for the correction of records and every suit and proceedings in respect of declaration of rights or interest in any land lying in the area or for declaration or adjudication of any other right in regard to which proceedings can or ought to be taken under this Act, pending before any Court or authority whether of the first instance or of appeal, reference or revision, shall on an order being passed in that behalf by the Court or authority before whom such suit or proceeding is pending stand abated."**

5. It appears that in the present suit, the plaintiff has sought relief for declaration that the record of right prepared in the name of the petitioner is illegal, fraudulent, null and void and also prayed that the Jamabandi opened in the name of the petitioner is also illegal and not binding on the plaintiff. It appears that the plaintiff filed the objection of the recording of the name of the petitioner in the record of right under the Act which was rejected

and thereafter, he filed present suit for declaration and / or setting aside the jamabandi opened in the name of the petitioner itself. So far this relief claimed by the petitioner is concerned, it cannot be the subject matter before the consolidation authority. The Court below in the impugned order has observed this and has rejected the application on the ground that so far this relief is concerned that can be granted by the Civil Court only and not by the consolidation authority.

6. In view of the above position of law, the impugned order needs no interference in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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