

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.229 of 2019**

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Keshav Singh, S/o Late Jagardeo Singh, resident of Village-Marichawan, P.S.-
Bhabhua, Distt.-Kaimur (Bhabhua)

... .. Petitioner

Versus

1. Harbansh Tiwary, S/o Late Kailash Tiwary, resident of Village- Marichawan,
P.S.-Bhabhua, Distt.-Kaimur
2. Dadan Tiwary S/o Late Chintaman Tiwary, resident of Village- Marichawan,
P.S.-Bhabhua, Distt.-Kaimur

...Defendants/Respondents 1st set)

3. Gobardhan Singh, S/o Late Mahadeo Singh, resident of Village-
Marichawan, P.S.-Bhabhua, Distt.-Kaimur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhubneshwar Prasad, Advocate

Mr. Praveen Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 12-04-2019

By the impugned order dated 15.01.2018 passed in Title
Suit No.583 of 2016, the learned Sub Judge-VI, Kaimur at
Bhabhua has dismissed Title Suit No.583 of 2016 on the ground
that a notification has already been issued under section 3 of the
aforesaid Act in respect of the suit land.

2. Learned counsel for the petitioner submitted that the
impugned order dated 15.01.2018 passed in Title Suit No.583 of
2016 by the learned Sub Judge-VI, Kaimur at Bhabhua is illegal,



arbitrary and perverse. He submitted that the order has been passed without application of mind on surmises and conjecture. The trial court has failed to consider that the consolidation proceeding has not been taken up in the mauza-Marichawan till date. Hence, the petition dated 19.08.2017 filed under Section 4(b) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (for short 'the Act') by the defendant no.2 should have been rejected.

3. On query, learned counsel for the petitioner admitted that a notification has already been published under Section 3(1) of the Act for the area covering village-Marichawan.

4. The provision contained under Section 4(b) of the Act provides that after a notification is published in the official gazette under Section 3(1) of the Act, no suit or other legal proceeding falling in the area notified shall be entertained by any court. Further, section 4(c) of the Act provides that every proceeding for correction of records and for declaration of rights or interest in any land or any other right pending before any other court or authority shall stand abated.

5. Thus, the consequence of a valid notification under Section 3(1) of the Act would be that no suit or other legal



proceeding in respect of any land falling in the area notified shall be entertained by any court.

6. It is not in dispute that in the instant case a notification in official gazette has already been published under Section 3(1) of the Act. Once a valid notification covering the area in question has been published in the official gazette, the suit could not have proceeded, as restriction placed under Section 4(b) of the Act completely bars jurisdiction of civil court in respect of entertainment of any suit or other legal proceeding falling in the area notified.

7. Accordingly, I see no error in the impugned order passed by the court below. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.04.2019
Transmission Date	NA

