

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9973 of 2019

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Rajesh Prasad, Son of Late Jadunandan Mali @ Yadunandan Bhagat, R/o
Village- Ahiraon, P.O. Baroon Kala, P.S.- Darihat, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Director Consolidation, Bihar, Patna
3. The Deputy Director Consolidation, Rohtas, Sasaram
4. The Consolidation Officer Dehri, District- Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Advocate

For the Respondent/s : Mr. Nawneet Kumar, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 19-09-2024

Heard Mr. Siddharth Harsh, learned Advocate for the petitioner and Mr. Nawneet Kumar, learned Advocate for the State.

2. The petitioner by preferring the present writ petition seeking a direction upon the respondents Consolidation Officer, Dehri to forthwith register his case for partition and to decide to its logical conclusion. Alternatively, commanding the respondents to notify the Mauza Ahiraon under Thana No. 115, Anchal Dehri, District Rohtas under Section 26A of the Consolidation Act (hereinafter referred to as '26A of the Act).



3. Learned Advocate for the petitioner contended that seeking partition of 1/9th share in the schedule property (Mauza Ahiraon, Thana No. 115 and Mauza Shivpur, Thana No.81) of the land, in question, the petitioner filed Title (Partition) Suit No. 456 of 2014 before the learned Sub-Judge, Sasaram. The defendants appeared in the suit and filed their written statement with a further prayer of abatement of the suit under Section 4 of the Consolidation Act. The petitioner, who was plaintiff therein, filed response on the basis of the information furnished by the Consolidation Office, whereupon the Court of learned Sub-Judge-VI, Sasaram was pleased to order the suit to be partially abated with respect to property of Mauza Ahiraon vide order dated 23.01.2018 as no de-notification under Section 26A of the Act was issued. So far Mauza Shivpur is concerned, the same had already de-notified vide Memo No. 1088 dated 28.04.1981 itself.

4. In the aforesaid premise and in the light of the order of abatement, the petitioner approached before the Consolidation Officer and tried to institute a partition claim with respect to property situated at Mauza Ahiraon, but the institution was refused vide letter no. 133/18 dated 23.11.2018 intimating the petitioner that after confirmation of Chak on 28.03.1977,



any suit or proceeding outside the jurisdiction of Consolidation Officer or the Deputy Director, Consolidation is not permissible.

5. Adverting to the aforesaid facts, learned Advocate for the petitioner contended that unless an order of de-notification under Section 26A of the Act is issued by the competent authority, the Consolidation proceeding cannot come to end and in such a situation even not entertaining the petition of the petitioner for partition would amount to keep the petitioner in limbo. It is further contended that either the Consolidation Officer ought to entertain the claim or to pass an order of de-notify under Section 26A of the Consolidation Act, but the same has not been done.

6. Considering the averments made in the writ petition and having heard the parties, this Court finds substance in the submission of the writ petitioner and, accordingly, the present writ petition stands disposed off with a direction to the respondent nos. 1 and 2 to take appropriate decision preferably within a period of 12 weeks from the date of receipt/production of a copy of this order or to issue necessary order under Section 26A of the Act with regard to de-notification in accordance with law after considering the record.

7. With the aforesaid direction and observation, the



present writ petition stands disposed off.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2024
Transmission Date	NA

