IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2092 of 1996

In the matter of an application under Articles 226 and 227 of the Constitution of India

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1. Chandeshwari Yadav, son of Late Phani Lal Yadav
2. Bihari Yadav, son of Late Gulat Yadav

Both residents of village Mahipatti, P.S. Kishanpur, District Supaul

.... Petitioners

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna
3. The Additional Collector, Saharsa
4. The Deputy Collector, Land Reforms, Supaul
5. Chowa Mandal, son of Late Musaharu Mandal

   Resident of village Jhitkiahi, P.O. Pakuri, P.S. Pipra, Dist. Supaul
6. Girja Nandan Mandal, son of Late Taufi Lal Mandal, resident of village Litiahi, P.O. Pipra, P.S. Pipra, Dist. Supaul
7. Uchit Yadav, son of Bihari Yadav, resident of village Jhitkiahi, P.O. Pakuri, P.S. Pipre, Dist. Supaul
8. Ram Deo Yadav, son of Kallar Yadav, resident of village Jhitkiahi, P.O. Pakuri, P.S. Pipra, Dist. Supaul

.... Respondents

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Appearance :

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

For the Respondent/s : Mr. Yogendra Mishra, Advocate and
Mr. Subhash Chandra Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 14-05-2015

Heard learned counsel for the petitioners and learned counsel for respondent No.5.

The petitioners seek quashing of the order dated 31.8.1990 passed by the Additional Member, Board of Revenue, Bihar in Revision Case No. 320 of 1988 and also for quashing the order dated 11.8.1988 passed by the Additional Collector, Saharsa in Ceiling

Appeal No. 43 of 1986-87 as also quashing the order dated 6.10.1986 passed by the D.C.L.R., Supaul.

The facts of the present matter as they have come before this Court lie in a very narrow compass. In a preemption matter at an earlier stage the original vendees had come up right up to this Court and lost. The purchasers from the said vendees, namely, one Phani Lal Yadav had approached the appellate authority, namely, the Additional Collector, Saharsa in the matter by filing an appeal No. 43 of 1986-87 before it. During the pendency of the appeal the said Phani Lal Yadav died. The petitioner No.1 filed an application to be substituted in place of the said Phani Lal Yadav claiming to be his adopted son. The appellate authority, however, finding that no chit of paper has been filed by the petitioner No.1 Chandeshwari Yadav to show that he had been adopted by Phani Lal Yadav nor was he a party to any of the proceedings since 1969 and hence he could not be treated as an heir. The court below had accordingly dismissed the appeal. Aggrieved by the same, the petitioner filed a revision being Case No. 320 of 1988 before the Board of Revenue which was also dismissed by order dated 31.8.1990 of the Additional Member, Board of Revenue upon finding that the petitioner did not produce even a chit of paper showing his legal adoption by Phani Lal Yadav and even before him had not produced any paper regarding any adoption and there was nothing to show that he was a legal representative of Phani Lal Yadav and therefore held that he could not be allowed to be brought on the record as the petitioner in the revision application nor he was an aggrieved party. The revision application was dismissed as not maintainable in view of the provisions of Section 45C of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act.

Now the present writ application has been filed not only by the said Chandeshwari Yadav who had lost before the appellate court and revisional court but also by one Bihari Yadav, the petitioner No.2, brother of petitioner No.1. In my view, the petitioner No.2 has no locus standi to maintain the writ petition as brother of petitioner No.1 Chandeshwari Yadav, who is alleged to be the adopted son of the said Phani Lal Yadav as he was not a party before the revisional authority or appellate authority and thus the writ petition on his behalf is misconceived and not maintainable at all.

So far as the petitioner No.1 is concerned, he has lost the matter before the appellate authority and revisional authority on the ground that he could not produce any chit of paper regarding his adoption and thus could not be substituted in place of the original appellant before the court below.

I do not find any reason to interfere with such findings of fact by the Board of Revenue, the revisional authority. The question of adoption could only be decided before the appellate authority/revisional authority on the basis of documents and factual materials to be produced before it. I thus see no reason to interfere with the orders impugned.

The writ application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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