

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1089 of 2014

In
Civil Writ Jurisdiction Case No. 2942 of 1991

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1. Laljhari Devi, W/O Binda Patel, R/O Village- Dhanauti, P.S. Thikaha (Kathaiya), District- Muzaffarpur.
 2. Rameshwar Rai, S/O Late Ramdeni Rai, R/O Village- Boaria, P.S. Motipur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Member, Board of Revenue, Bihar Patna.
3. The Additional Collector, Muzaffarpur.
4. The D.C.L.R., Muzaffarpur.
5. Hardeo Sah.
6. Hari Nandan Sah

Both are sons Of Late Ram Lakhan Sah and are residents of Village- Damodarpur, P.S. Sadar, District- Muzaffarpur.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Kant Mishra
For the Opp. Party-State : Mr. Nivedita Nirvikar, GA-10
For the Opp. Party No.5 : Mr. Shambhu Nath

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 22-04-2015 Heard Mr. Surya Kant Mishra, learned counsel appearing for the petitioners, learned counsel for the State and Mr. Shambhu Nath, learned counsel appearing for opposite party no.5.

This application has been filed for restoration of CWJC No.2942 of 1991 which was dismissed for non-prosecution vide order passed on 29.11.2013.

It is the case of the petitioners that the original writ petitioner, namely Tapia Devi has deceased and following which



a substitution application bearing I.A. No.1688 of 2014 was filed on 25.2.2014 in the writ petition but before it could be taken up for consideration, the writ petition was dismissed for non-prosecution on 29.11.2013. He submits that even the original Advocate on record Mr. Rajeshwar Rai has deceased so the writ petition could not be marked resulting in its dismissal for non-prosecution.

Mr. Shambhu Nath, learned counsel appearing for opposite party no.5 herein has submitted that although initially Mr. Sunil Kumar Prasad Singh was appearing for the respondent nos.5 and 6 in the writ petition but after dismissal of the writ petition for non-prosecution on 16.12.2008 and at the stage of consideration of the earlier restoration application bearing MJC No.1190 of 2010, the private respondent authorize him to appear on his behalf and he filed a Vakalatnama on behalf of respondent no.5 in the said restoration application.

After restoration of the writ petition, the matter was considered on 29.11.2013 but for the reasons aforementioned it again got dismissed for non-prosecution.

I have heard learned counsel for the parties and I have perused the materials on record.

The petitioners seek substitution in place of the

original writ petitioner Tapia Devi. The two petitioners claimed to be the daughter and son-in-law of the deceased writ petitioner Tapia Devi. Learned counsel for the petitioners submits that the wife of petitioner no.2 herein has also deceased.

In the circumstances the two petitioners pray to espouse the cause on behalf of the deceased writ petitioner and such prayer is allowed and the present application for restoration is permitted to be pursued by the these two petitioners.

Having heard learned counsel for the parties and taking note of the circumstances which led to dismissal of the writ petition I am satisfied with the reasons assigned and as a consequence the order dated 29.11.2013 passed in CWJC No.2942 of 1991 is recalled and CWJC No.2942 of 1991 is restored to its original file.

This application is allowed.

(Jyoti Saran, J)

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