

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19770 of 2010

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Kaushalya Devi, wife of Baidyanath Sah, resident of village Ganeshpur, P.S.-
Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

Awadhesh Rai, son of late Mewa Lal Rai, resident of village Shekhpur, P.S.-
Ahiyapur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha

For the Respondent/s : Mr. Bhuneshwar Prasad

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 06-08-2015

Heard Mr. Nachiketa Jha for the petitioner and Mr. Bhuneshwar Prasad for the contesting respondents.

The defendant of Title Suit No. 174 of 1998 has filed the present writ application to assail the order dated 18.9.2010 by which the Trial Court, on an application filed by the respondent, permitted him to be impleaded as the plaintiff after the death of the sole plaintiff and to pursue the suit and further directed to expunge his name from the records.

The case of the respondent is that during the pendency of the suit, the deceased sole plaintiff sold the suit land in his favour by a sale deed in the year 2006. The suit, however, continued and was prosecuted by the Vendor until he died on 25.1.2010. The purchaser having stepped into the shoe of the Vendor made the said application

which was considered and allowed.

In the case of *Smt. Bhagmani Devi Vs. Most. Kabiraj Devi* [2010 (3) PLJR 228] on which reliance has been placed by the Counsel for the respondent, it has been found that purchaser of the suit has a legal right to be substituted and/or brought on record either to pursue the suit and/or to oppose the prayer in the suit.

Mr. Jha states that the Court should also have directed for bringing on record the heirs and legal representatives of the deceased plaintiff. There is nothing on record to indicate that any such application was filed by the heirs and legal representatives of the sole deceased plaintiff. If any such application is filed, the same shall receive due consideration of the Court.

Considering the background in which the impugned order has been passed, this Court does not find any patent illegality therewith meriting interference.

The application is dismissed.

(Kishore Kumar Mandal, J)

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