

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1410 of 2006

- =====
1. Bindeshwari Pd.Singh, Son of Late Santoshi Singh, Resident of Village- Akbarpur, at present Samho Tola –Totha, P.S.-Samho, under Nayagaon, Pergana-Malki, District- Begusarai.
 2. Sunanina Devi, Wife of Ram Nandan Prasad, Resident of Village- Akbarpur, at present village-Samho, Tola-Totha, P.S.- Samho, under Nayagaon, Pergana Malki, District-Begusarai.

Both plaintiffs--

-Petitioners.

Versus

1. Ram Naresh Singh, Son of Late Ramashray Singh, Resident of Village- Samho Tola-Sarlahi, P.S.-Samho, under Nayagaon, Pergana- Malki, District-Begusarai.-**Defendant 1st party-Opp.Party 1st party.**
2. Smt. Maiya Devi, Wife of Late Babu Baidyanath Prasad Singh, Resident of Village- Pipariya, P.S.-Barahiya, District- Monghyr. At present village-Babni, Town, Deoghar, P.S. and District-Deoghar, Jharkhand. –Defendant 2nd party-Opp.Party 2nd party.

-Opposite parties.

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Verma
Mr. Manoj Kumar Singh
Mr. Brajesh Kumar Pandey

For the Respondent/s : Mr.
Mr. Gopal Sharan Singh

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

10 16-10-2015

Heard Uma Shankar Singh, the learned counsel
for the petitioners.

Mr. Parth Sarthi, advocate has appeared for
opposite party no.1 and has submitted that the opposite party no.1
has already died on 01.06.2012.



From the office note it transpires that this revision application stood dismissed due to non-compliance of the order dated 24.03.2009 as against the opposite party no.2. Thereafter the petitioner filed MJC No.1415/2009 for restoration of the revision application as against the opposite party no.2. This restoration application was also dismissed on 24.11.2010. Another restoration application (M.J.C. No.1006/2011) was thereafter filed by the petitioners praying for restoration of the earlier restoration application (M.J.C. No.1415/2009). This Court, however, disposed of this restoration application with liberty to the petitioners to file a fresh application in accordance with law against the order impugned in the revision application.

The learned counsel appearing for the petitioners has fairly submitted that no fresh application as directed by the order dated 22.02.2012 was filed by the petitioners.

By order dated 23.04.2014 the competency matter was directed to be considered at the time of hearing of this revision application and accordingly the revision application has been placed for hearing and also for considering the competency matter.

Mr. Singh, the learned counsel for the petitioners, at the outset, has submitted that this revision

application itself was not maintainable as the impugned order was appealable under the provisions of Order 43 Rule 1 C.P.C. It has, however, been not controverted by the learned counsel for the petitioners that this revision application has stood dismissed as against the opposite party no.2.

After considering the submissions and the facts of this case including the submission by the learned counsel for the opposite party no.1 that the opposite party no.1 had died long back on 01.06.2012, and this revision application has already stood dismissed against the opposite party no.2, this revision application, as on this day, is without any opposite party on record.

As such, this revision application cannot proceed and is dismissed as incompetent.

(V. Nath, J)

Nitesh/-

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