

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12915 of 2008

- =====
1. Baban Mahato
 2. Lal Bihari Mahato
 3. Shyam Bihari Mahato

All sons of late Bhola Mahato, resident of village-Athar, P.S.-Nawanagar,
District-Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Joint Director of Consolidation (H.Qr.) Bihar, Patna.
3. The Deputy Director of Consolidation, Bhojpur at Arrah.
4. The Consolidation Officer, Nawanagar.
5. Janardan Mahato, son of late Jeut Mahato, resident of village-Athar,
P.S.-Nawanagar, District-Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Pandey

For the Respondent nos.1to4: Mr. (Dr.) Raj Kumar Singh, AC to SC-8

For the Respondent no.5 : Mr. Rang Nath Choubey

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 07-08-2015

Heard the parties.

By the impugned order dated 10.03.2008 (Annexure-9) passed in Consolidation Revision No.346 of 1991 by the respondent Joint Director of Consolidation (Headquarter), Bihar, Patna, the claim of the petitioners with respect to the lands in question has been rejected by holding therein that the petitioners have not been able to establish that late Bhola Mahto, father of the present petitioners, was son of late Jeut Mahto.

According to the petitioners, late Jeut Mahto had two sons namely, late Bhola Mahto and Janardan Mahto (respondent no.5). However, according to the respondent no.5, late Jeut Mahto was having only one son namely, Janardan Mahto and the present petitioners are not descendants of late Jeut Mahto.

In the considered opinion of this Court unless and

until the dispute regarding descendants of late Jeut Mahto is conclusively decided on the basis of the evidence produced by the parties, the issue raised herein on behalf of the petitioners with respect to the lands under dispute cannot be appropriately decided in the present proceeding.

In above view of the matter, learned counsel appearing on behalf of the petitioners seeks permission to withdraw the present writ petition with a liberty to file a Civil Suit before a civil court of competent jurisdiction for getting a declaration made that these petitioners are also the descendants of late Jeut Mahto and, therefore, they are entitled to have share in the lands under dispute as also for grant of other appropriate relief.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

If such a Civil Suit is brought by the petitioners within a period of three months from today, then the same shall be decided in accordance with law on the basis of the evidence produced by the parties, but without being influenced/prejudiced by the findings recorded in the impugned orders passed in the consolidation proceeding.

(Birendra Prasad Verma, J)

Arvind/-

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