

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9725 of 1995

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Sumitra Devi wife of Dhaneshwar Kuer, resident of village Tejaul, P.O. Baruari, P.S.Gaighat, district Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Collector, Muzaffarpur
3. Ram Udar Kuer son of Late Kapileshwar Kuer
4. Most.Phuleshwari Devi widow of Late Laxman Kuer

.... Respondent/s

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Appearance :

For the Petitioner/s

: Mr. Manoj Kumar No.1, Advocate
Mr.Shrinandan Prasad Singh, Advocate
Mr.Ashok Kumar, Advocate

For the Respondent Nos. 1 & 2 : Mr.Kamlesh Kishore, AC to GP 2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 12-10-2015

Heard the parties.

The present matter arises out of a proceeding under Section 32 of The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (in short, “the Consolidation Act”).

By the office note dated 17.09.2013, it was pointed out that the process server has reported that the respondent no.3 Ram Udar Kuer and the respondent no.4 Most. Phuleshwari Devi, both contesting parties, are dead.

In view of the aforesaid report, on the request of the learned counsel appearing on behalf of the petitioner, the matter was adjourned for four weeks by order dated 19.09.2013 enabling him to file an appropriate substitution petition with respect to the deceased respondent nos. 3 and 4.

Learned counsel appearing on behalf of the petitioner submits that despite all communication made by him, he has not received any instruction from the petitioner; therefore, substitution

petition vice deceased respondent nos. 3 and 4 has not been filed till date.

From the facts noticed above it is apparent that the respondent nos. 3 and 4, who are contesting parties in the aforesaid proceeding under the Consolidation Act, died in the year 2013 and despite passage of more than two years, step has not been taken by the petitioner for substitution of heirs and legal representatives of deceased respondent nos. 3 and 4.

In above view of the matter, the writ petition stood abated as against the respondent nos. 3 and 4 and their heirs and legal representatives. Consequently, the writ petition has become incompetent and cannot proceed further.

In the result, the writ petition has to fail and is, accordingly, dismissed as it has become incompetent.

(Birendra Prasad Verma, J)

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