

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18983 of 2014

With
Interlocutory Application No.6303 of 2015

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1. Prabhu Narayan Prasad
2. Shambhu Nath Prasad
Both sons of late Gyanchand Harijan and Both resident of village -
Bhabhuwar, P.O. Khaniota, P.S. Buxar, District - Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector cum District Magistrate, Buxar.
3. Sub-Divisional Magistrate, Buxar Sadar, District - Buxar.
4. The Anchal Adhikari, Buxar, District - Buxar.
5. The Sub Divisional Police Officer, Buxar, District - Buxar.
6. Hari Shankar Ram son of late Muneshwar Ram Resident of village -
Bhabhuwar, P.O. Khaniota, P.S. Buxar, District - Buxar.
7. Surya Nath Pandey
8. Bidya Nath Pandey
9. Dwarika Nath Pandey All sons of late Ramjanam Pandey
10. Janardan Pandey son of late Shiv Muni Pandey Resident of village -
Bhabhuwar, P.O. Khaniota, P.S. Buxar, District - Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma
For the Respondent nos.1to5 : Mr. Amit Kumar Anand, AC to GP-15
For the Respondent nos.7to10 : Mr.Chaudhary Shyam Nandan

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 21-08-2015

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 11.08.2014 passed by the learned Bihar Land Tribunal, Patna, whereby B.L.T. Case No.772 of 2013 (arising out of CWJC No.12078 of 2005) filed on behalf of the respondent nos.7 to 10 has been allowed and the orders passed by the revenue authorities in favour of the deceased father of petitioners regarding lands under dispute have been set aside

and reversed without giving any opportunity of hearing to the petitioners.

Learned counsel appearing on behalf of the petitioners has raised a very short point in the present proceeding. According to him, the respondent nos.7 to 10 had filed CWJC No.12078 of 2005 before this Court assailing the validity and correctness of the order dated 07.06.2005 passed by the respondent District Collector-cum-District Magistrate, Buxar in Mutation Revision Case No.147 of 2002 as also the order dated 06.02.2001 passed by the respondent Circle Officer, Buxar in Mutation Case No.446 of 1999-2000. It is contended that the aforesaid writ petition was transferred to the Bihar Land Tribunal, Patna by the order dated 21.10.2013 passed by a Bench of this Court (Annexure-1). It is further contended that Gyanchand Harijan, the father of the present petitioners, was impleaded as respondent no.6 in the aforesaid writ petition, as the respondent District Collector had passed revisional order in his favour, which was subject matter of challenge in that writ petition and ultimately became the subject matter of challenge in the aforesaid B.L.T. Case No.772 of 2013. However, the aforesaid Gyanchand Harijan died on 13.10.2013 leaving behind the present petitioners as his heirs and legal representatives, but without substituting them as party respondents either in the writ petition or in the aforesaid B.L.T. Case No.772 of 2013, the matter proceeded further and ultimately by the impugned order the case has been allowed by the learned Tribunal. It is pointed out that, in view of the fact that the order passed by the District Collector was in favour of the father of the petitioners regarding lands in question, therefore, after his death, the petitioners were required to be given an opportunity of

hearing, but that has not been done and, therefore, on the ground of violation of rules of natural justice, the order impugned is not sustainable.

Learned counsel appearing on behalf of the respondent nos.7 to 10 has contested the matter by filing a counter affidavit on their behalf. While supporting the impugned order, the learned counsel has tried to address the Court on merits of the case, but has not disputed the fact that the father of the petitioners was party in the writ petition filed by them, which was ultimately transferred to the learned Tribunal. According to him, after death of father of the petitioners, his name was expunged from the case.

Without going into the merits of the claims of the parties regarding the lands in question, this Court is of the opinion that once the order of District Collector was in favour of the father of the petitioners and once he was impleaded as a party respondent in the writ proceeding as also in the case before the learned Tribunal, then, after his death, his heirs i.e. the petitioners were required to be substituted and only thereafter the matter could have proceeded further, but that has not been done in the present case. Evidently, rules of natural justice has been violated as the order dated 06.02.2001 passed by the Circle Officer, Buxar as also the order dated 07.06.2005 passed by the District Collector, Buxar regarding the lands in question, which were in favour of the petitioners, have been set aside and reversed without giving them any opportunity of hearing. Hence, the impugned order cannot be sustained in law.

For the aforesaid reasons, the impugned order dated 11.08.2014 passed in B.L.T. Case No.772 of 2013 (arising out of CWJC No.12078 of 2005) by the learned Bihar Land Tribunal,

Patna is hereby set aside and quashed and the matter is remitted back to the learned Tribunal to decide the matter afresh after giving an opportunity of hearing to the petitioners, besides others.

In order to expedite the matter, let the petitioners as also the private respondents appear before the learned Tribunal within a period of one month from today with a certified copy of the present order, whereafter the matter shall be decided afresh in accordance with law.

The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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