

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10349 of 2014

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1. Nripendra Narayan Singh @ Gopal Jee S/o Nagendra Narayan Singh @ Bachha Babu R/V + P.O. + P.S. Sonpur, District - Saran, At present Residence - Sonpur House, Mohalla - Kadamkuan, Naval Kishore Road, P.O. + P.S. Kadamkuan, District – Patna.
2. Shailesh Kumar Singh S/o Late Baijnath Singh resident of Mohalla - Gardanibagh, 4A, Patna, P.S. Gardanibagh, P.O. G.P.O., Patna District – Patna.
3. Priyadarshni W/o Sri Rakesh Nandan Prasad Singh R/o Mohalla - Samdhanpura, Nandan Niwas, P.O. R.S./ Gaya, P.S. Kotwali Gaya, District – Gaya.
4. Shrawan Kumar Singh S/o Late Yogesh Narayan Singh R/M - Katghar (Jagdamba Bhawan), P.O. + P.S. Aliganj, District – Bhagalpur.
5. Archana Devi W/o Sri Sanjay Kumar Singh R/o Mohalla - Ward No.19, Sitamarhi, P.O. + P.S. + District – Sitamarhi. Petitioner/s

Versus

1. Vinay Pratap Singh @ Patali Babu S/o Late Chandra Shakher Singh R/V + P.O. + P.S. Sonpur, District – Saran.
2. The Rajiv Ranjan Singh @ Bhola Babu S/o Late Rajendra Narayan Singh R/V + P.O. + P.S. Sonpur, District – Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 30-06-2016

Heard learned counsel for the petitioners.

The petitioner has challenged the legal sustainability of the impugned order by which the learned court below has allowed the

prayer of one of the plaintiffs for substituting the heirs of another deceased plaintiff in the suit.

It is apparent that these petitioners have been impleaded as defendants in the suit which was filed by two plaintiffs. During the pendency of the suit one plaintiff died and the remaining plaintiff filed the petition for substituting the heirs and legal representative of the deceased plaintiff. The defendant-petitioners filed rejoinder to the said petition stating therein that the deceased plaintiff died leaving behind his heirs including his widow and therefore the proposed legal representatives could not have been substituted in place of the deceased plaintiff. The learned court below, by the impugned order, has allowed the prayer as made by the remaining plaintiff for substitution of the legal representatives of the deceased plaintiff.

Learned counsel for the petitioners has submitted that the deceased plaintiff had left behind his heirs including his widow and therefore the person who had been proposed to be substituted as legal representatives in his place could not have been substituted. It has been also submitted that as the petitioners are purchasers of the suit property and the sale deeds in their favour are directly in question in the suit, their interest would suffer if the proper person is not impleaded as plaintiff in the suit.

After considering the submissions and from the perusal of



the impugned order, it transpires that the present petitioners are defendants in the suit and have raised the objection to the substitution of the deceased plaintiff by his heirs and legal representatives. The learned court below has found that no evidence has been produced by the petitioners in support of their contention that the proposed legal representatives of the deceased plaintiff alone could not represent the interest of the deceased plaintiff as he had left behind his widow and other heirs. At this juncture, it would be pertinent to notice the submissions on behalf of the petitioners that as the said fact has not been denied by the remaining plaintiff and therefore there was no need to substantiate the said statement by the defendant-petitioners in the suit.

This Court is not inclined to align with this submission in view of the fact that when the petitioners came out with specific case that the deceased plaintiff had left behind other heirs as well then the said fact could have been substantiated by cogent evidence. But in any view of the matter, as no objection has been raised in this regard by the alleged remaining heirs or the proposed heirs, the objection of the defendant to the substitution has rightly been turned down by the impugned order.

The present application is, accordingly, dismissed. However, the petitioners shall have the liberty to question the status of

the substituted plaintiff as such by raising specific objection in this regard, in accordance with law, if permissible.

(V. Nath, J.)

Devendra/-

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