

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 19030 of 2011

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Faiz Murtaza Ali, S/O Late (Justice) Murtaza Fazal Ali, R/O 112, Uday Park, New Delhi - 110049 through Anwer Najmi, S/O Late Akhter Syeed Mojibi, R/O Mohalla - Quddus Vakil Compound, Dariyapur, P.S. - Pirbahore, Town and District - Patna, the duly appointed power of attorney on behalf of Faiz Murtaza Ali

.... Petitioner

Versus

1. Syed Askari Hadi Ali Augustine Imam alias Tootoo Imam, Son of Late Syed Hassan Imam
2. Syed Hassan Francis Imam, Son of Syed Askari Hadi Ali Augustine Imam alias Tootoo Imam,

Both residents of Konar Avenue, Ranchi – Hazaribagh Road, Police Station – Hazaribagh, District – Hazaribagh, Jharkhand

3. Jitendra Kumar Sinha, Advocate through Syed Askari Hadi Ali, R/O Konar Avenue, Ranchi, Hazaribagh Road, P.S. - Hazaribagh, Distt. - Hazaribagh, Jharkhand
4. Dr. Shahida Hassan, W/O Mr. Azfar Hassan, and D/O Late Mr. Syed Hassan Ahmad Sami, R/O Ramna Raod, Naya Tola, P.S. Pirbahore, in the Town and District of Patna
5. The Bihar Stae Shia Wafq Board 34, Haz Bhawan, Harding Road, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Manish Kumar No - 2, Advocate

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-11-2016

Heard learned counsel appearing for respondent no. 1 and 2. No one has appeared on behalf of the applicants in I.A. No. 5547 of 2013 and I.A. No. 6314 of 2013.

From the records, it transpires that the sole petitioner of this application died during the pendency of this application and the aforesaid two interlocutory applications have been filed praying for substitution by the applicants therein in place of the deceased sole petitioner Faiz Murtaza Ali. It transpires that by order dated



07.02.2014 the consideration of the aforesaid two interlocutory applications was deferred in view of the admitted fact that the applicants therein had already filed substitution petition seeking their substitution in the suit pending before the trial court. It further transpires that by subsequent order dated 24.06.2014 the consideration of the aforesaid two interlocutory applications was deferred till the disposal of the substitution petitions in the court below. There was further direction by order dated 19.07.2016 for obtaining the copy of the order passed in the suit. After inquiry in the rival claims for substitution the order/inquiry report dated 29.09.2016 has been sent by the learned court below to this Court and has been placed today for consideration. From the said order, it transpires that the claim of the respective applicants in the aforesaid two interlocutory applications for their substitution has been turned down.

Nobody has appeared to press the two interlocutory applications i.e. I.A. No. 5547 of 2013 and I.A. No. 6314 of 2013.

Today learned counsel for the respondent no. 1 and 2 has submitted that after the order/inquiry report dated 29.09.2016, there remains no substance in the claim of the applicants of the said two interlocutory applications to be substituted in the place of the sole deceased petitioner. It has been further contended that as there is now no petitioner in this application, the same may be dismissed as

infructuous.

After considering the submissions, perusal of the order/inquiry report dated 29.09.2016 and considering the facts and circumstances, the two interlocutory applications are dismissed as not pressed. Consequently, in absence of any petitioner in this application after the death of the sole petitioner, this application is also dismissed as incompetent.

(V. Nath, J.)

Kundan

AFR/NAFR	
CAV DATE	
Uploading Date	17.11.2016
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