

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6845 of 2014

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1. Most. Asharfi Devi Wife of Ramjee Ram @ Ramjee Yadav. Resident of Village - Baradparva, P.S. - Jagdishpur, District - Bhojpur , Present Residing At Jain College, Purvi Gate, P.S. - Nawada Ara, District - Bhojpur (Bihar),
 2. Birja Bihari Singh Son of Late Ram Ekbal Singh.
 3. Suresh Singh Son of Late Jay Karan Singh.
 4. Ram Bachan Singh Son of Late Ram Ekbal Singh
 5. Udai Chandra Singh Son of Late Ram Ekbal Singh.
 6. Thakur Deyal Singh Son of Late Ram Ekbal Singh.
 7. Wakil Singh Son of Late Ramadhar Singh.
 8. Surendra Singh Son of Late Jadge Singh.
 9. Yogendra Singh Son of Late Jadge Singh. Sl. No. 2 To 9 Are Resident of Village - Digha, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 10. Shambhu Singh Son of Umesh Chandra Singh. Resident of Village - Masurhi, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 11. Ram Nath Singh Son of Badri Singh. Resident of Village - Ishwar Singh Tola, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 12. Lal Babu Singh Son of Late Jaj Ram Singh.
 13. Babloo Singh Son of Late Tetar Singh.
 14. Hira Lal Singh Son of Late Tetar Singh.
 15. Shorai Singh Son of Late Tetar Singh.
 16. Godhan Singh Son of Late Tetar Singh. Sl. No. 12 To 16 Are Resident of Village - Narayanpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 17. Yogendra Singh Son of Late Sheo Narain Singh.
 18. Saheb Singh Son of Late Sheo Narain Singh.
 19. Manai Singh Son of Late Bachan Singh. Resident of Village - Narainpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 20. Amit Kumar Srivastava Son of Late Madan Prasad Srivastava Resident of Village - Babhangawama, P.S. - Barhara, District - Bhojpur (Bihar).
 21. Smt. Bimal Devi Daughter of Late Mahendra Prasad Resident of Village - Maharaj Hata, Ara, P.S. - Ara Nawadah, District - Bhojpur (Bihar).

.... Petitioner/s

Versus

1. Dr. Shyam Nandan Mishra Son of Late Laxmi Kant Mishra
2. Smt. Malti Mishra Wife of Dr. Shyam Nandan Mishra Both Resident of Mohallah - Pakri, P.S. - Nawada, Ara, District - Bhojpur (Bihar).
3. Uma Shankar Lal Son of Late Mahendra Lal. Resident of Village - Sultanpur, P.S. - Jagdishpur, District - Bhojpur Presently Residing At Raushan Bihari, Bailey Road, Patna, P.S. - Danapur, District - Patna (Bihar).
4. Smt. Vidya Srivastava Wife of Bacchanjee Sahay
5. Smt. Shila Nath Srivastava Wife of Rajiv Lochan Nath @ Atuljee.
6. Smt. Mina Kumari Srivastava Wife of Kumar Ajit. Sl. No.4 To 6 Are Resident of Village - Sultanpur, P.S. - Jagdishpur, District - Bhojpur, Presently Residing At Mohallah - Babu Bazar, P.S.- Ara Nagar, District - Bhojpur (Bihar).
7. Smt. Malti Singh Wife of Sri R.N. Sinha Daughter of Late Saraswati Devi. Resident of Qtr.No. C.D. 761/11 Site (V), H.E.C., Ranchi - 4

(Jharkhand).

8. Smt. Pushpa Krishna Daughter of Ram Badan Ojha Resident of Qtr. No. 2300, Type - B, Site (Iv), 2 H.E.C. Colony, Dhurwa, Ranchi - 4 (Jharkhand).

9. Jagdish Ojha Son of Ram Badan Ojha.

10. Narayan Ojha Son of Jagdish Ojha.

11. Salikgram @ Slik Gram Ojha Son of Jagdish Ojha.

12. Raj Muni Devi Wife of Salik Gram Ojha. Sl. No. 9 To 12 Are Resident of Village - Semariya, P.S. - Shahpur, District - Bhojpur (Bihar).

13. Renu Kumari Srivastava Wife of Akhilesh Kumar Sinha. Resident of Mohallah - Roshan Vihar Colony, Bailey Road, Near Saguna More, P.S. - Danapur, Town AND District - Patna (Bihar).

14. Jagdeyal Singh Son of Late Subedar Singh.

15. Bind Kumar Singh Son of Late Sheo Najar Singh. Sl. No. 14 And 15 Are Resident of Village - Narainpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhishek

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

5 03-03-2016

Heard the learned counsel for the petitioners and

the learned counsel for the respondents.

The learned counsel for the respondents has raised the preliminary objection in view of the statement made in paragraph-14 of the present writ application. The statement made in paragraph-14 of the present writ application is that the petitioner had earlier filed C.R.No.1877/2009 for the same relief, which has been prayed in the present writ application and by order dated 22.03.2013 the said revision application has been dismissed for non-prosecution.

It has also been stated that as the petitioner was



advised not to proceed with the revision application as the same was not maintainable in view of the Bench decision of this Court therefore also present writ application under Article 227 of the Constitution of India has been filed. The learned counsel for the respondents has categorically made the submission that after the dismissal of the revision application even for want of prosecution the order impugned therein stood affirmed and the only remedy open to the petitioner was to approach the Court in the civil revision application itself with appropriate petition and as the same has not been done, the jurisdiction under Article 227 of the Constitution of India cannot be exercised as it would amount to upset the order passed in the said revision application.

The learned counsel for the petitioners has submitted that this application be heard alongwith another application under Article 227 of the Constitution of India, which has been filed by the defendants in the suit assailing the present impugned order wherein the notice in the substitution matter has been issued. It would be noteworthy here that the present writ application has been filed by the plaintiffs of the suit and by the order under assail the suit has been held to be hit by the provisions of Section 4 of the Bihar Consolidation of Holding and Prevention of Fragmentation Act.

After considering the submissions and the materials on record including the statement made in paragraph-14 of the present writ application, this Court is of the opinion that the jurisdiction under Article 227 of the Constitution of India cannot be exercised in the facts and circumstances of the case particularly also when there had been substantial delay in filing the present application after the dismissal of the earlier revision application for want of prosecution.

The writ application is, accordingly, dismissed as not maintainable.

(V. Nath, J)

Nitesh/-

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