

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10302 of 2014

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1. Kameshwar Prasad Son of Late Narsingh Narain Sinha, resident of Mohalla- Tilha near Rajendra Ashram, P.S.- Civil Lines, District- Gaya and at present residing at D- 2226, Indra Nagar, P.S.- Gazipur, District AND Town- Lucknow (U.P.)

2. Rama Srivastava Wife of Dr. Manoj Kumar, resident of D- 2226, Indra Nagar, P.S.- Gazipur, District AND Town- Lucknow (U.P.)

3. Rajeev Ranjan Prasad Son of Sri Kameshwar Prasad, Resident of Village- Raghunathpur, P.S.- Haspura, District- Aurangabad at present resident of Mohalla- Tilha, near Rajendra Ashram, P.S.- Civil Line, District- Gaya

.... Petitioners

Versus

1. The State of Bihar (through the Collector, Gaya).

2. Priya Ranjan Son of Late Rabindra Nath Akhouri

3. Ruchi Sinha daughter of late Rabindra Nath Akhouri

4. Madhuri Sinha, widow of Late Rabindra Nath Akhouri, All the above respondent no. 2 to 4 are resident of Village- Wari, P.S.- Dobhi, District- Gaya at present residing at Mohalla- Tilha, P.S.- Civil Lines, District- Gaya.

5. Rakesh Ranjan Prasad Son of Sri Kameshwar Prasad, Resident of Village- Raghunathpur, P.S.- Haspura, District- Aurangabad at present resident of Mohalla- Tilha, near Rajendra Ashram, P.S.- Civil Lines, District- Gaya

6. Rajni Lata Wife of Rakesh Kumar Verma, resident of A-34 (T), Dhurwa District- Ranchi (Jharkhand)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bijoy Kumar Sinha

For the Respondent/s : Mr. Ga13-/Smt. Namrata Mishra

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 27-06-2016

Heard the learned counsel for the petitioners.

By the impugned order the learned court below has allowed the prayer of the heirs of the deceased defendant no.26 in the suit to be substituted/impleaded as party defendant in the suit. The plaintiffs in the suit have filed the present application under Article 227 of the Constitution of India assailing the legal sustainability of the said order.

The learned counsel appearing for the petitioners has submitted that the defendant no.26 was added as a party as he was the power of attorney holder of one of Vijay Kumar and Ramdhan Singh. However, it has not been disputed that Rabindra Nath Akhouri was impleaded as defendant no.26 in the suit by order dated 17.05.2004.

After considering the submissions and the materials on record, it is evident that the defendant no.26 Rabindra Nath Akhouri was a party to the suit and after his death the prayer was made by his heirs i.e. son, daughter and widow to be substituted in his place and the said prayer has been allowed by the learned court below by the impugned order. The contention on behalf of the petitioners that as the defendant no.26 was a power of attorney holder of Vijay Kumar and Ramdhan Singh and therefore his heirs could not have been substituted is devoid of merit and need no consideration at the stage of substitution. The court is not required to consider the claim or status of a party to the suit at the time of his death as the substituted heirs will acquire only the said status and will defend the stand taken by the said deceased defendant no.26. This Court therefore is not inclined to interfere in the impugned order under Article 227 of the Constitution of India.

The application is accordingly dismissed.

(V. Nath, J)

Nitesh/-

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