

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3845 of 2012

With
Interlocutory Application No. 6552 of 2012

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1. Kanhaiya Prasad @ Kanhaiya Bhagat S/O Bikrama Bhagat, resident of Village- Mujauna, P.O. + P.S. Manjha , District- Gopalganj
 2. Arjun Bhagat S/O Shivjeet Bhagat, resident of Village- Mujauna, P.O. + P.S. Manjha , District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Land Reforms, Govt. of Bihar, Patna
2. Additional Collector, Gopalganj
3. Babulal Choudhary son of Munshi Choudhary, resident of Village- Mujauna, P.O. + P.S. Manjha, District- Gopalganj
4. Hari Choudhary Son Of Munshi Choudhary, resident of Village- Mujauna, P.O. + P.S. Manjha, District- Gopalganj
5. Malti Kunwar W/O Late Sudama Choudhary, resident of Village- Mujauna, P.O. + P.S. Manjha, District- Gopalganj
6. Bharat Choudhary S/O Baban Choudhary, resident of Village- Mujauna, P.O. + P.S. Manjha, District- Gopalganj
7. Garju Choudhary S/O Bipat Choudhary, resident of Village - Dharam Parsa, P.S. Manjha, District- Gopalganj
8. Chandrika Bhagat S/O Kishwar Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
9. Heeralal Bhagat S/O Kishore Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
10. Kamal Bhagat S/O Rajdhari Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
11. Baleshwar Bhagat son of Shivjeet Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
12. Mukti Bhagat son of Shivjeet Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
13. Munna Bhagat son of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
14. Lakhan Bhagat son of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
15. Mohan Bhagat Son Of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
16. Madan Bhagat son of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
17. Bachcha Bhagat son of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
18. Vidya Bhagat son of Ramayan Bhagat, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj
19. Chanar Bhagat S/O Mukhlal Mahto, resident of Village - Mujauna, P.O. + P.S. Manjha, District- Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Rai, Advocate
For the Respondent Nos. 1 & 2 : Mr. Manoj Kumar, AC to GA 10
For the private Respondents : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL ORDER

3 08-04-2016

Re: I.A.No. 6552 of 2012

The instant Interlocutory Application has been filed on behalf of the petitioners stating therein that during pendency of the present writ petition, respondent no. 14 Lakhan Bhagat @ Lallan Bhagat and respondent no.19 Chanar Bhagat died on 26.10.2012 and 17.07.2012 respectively leaving behind their heirs and legal representatives, fully detailed in paragraph 2 of the instant Interlocutory Application.

The learned counsel appearing on behalf of the petitioners submits that, despite death of the aforesaid respondent nos. 14 and 19, right to sue survives. Therefore, according to him, it would be expedient that their heirs and legal representatives are substituted.

The learned AC to GA 10, appearing on behalf of the respondent nos. 1 and 2, does not raise any objection to the prayer for substitution made in the instant Interlocutory Application.

None appears on behalf of the remaining private respondents, though names of their learned counsel are printed in the daily cause list.

In the aforesaid facts and circumstances and also taking into consideration the fact that the present Interlocutory Application was filed within a reasonable period of time, the prayer for substitution is allowed.

Let the names of deceased respondent nos. 14 and 19 be expunged from the array of the parties of the main writ petition and they be substituted by their heirs and legal representatives, fully detailed in paragraph 2 of the instant Interlocutory Application.

The present Interlocutory Application stands finally disposed of with the observations and directions made above.

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With the consent of the parties, the main writ petition has been taken up for consideration on merits.

After some argument, the learned counsel appearing on behalf of the petitioners, in presence of the learned counsel appearing on behalf of the official respondents, seeks permission to withdraw the present writ petition with a liberty to approach the learned Bihar Land Tribunal, Patna for grant of appropriate relief (s) with respect to the lands under dispute, as also with respect to the order impugned in the present proceeding.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

The parties shall be at liberty to raise all the issues of facts and law before the learned Bihar Land Tribunal, Patna, which may be available to them.

If an appropriate petition is filed on behalf of the petitioners before the learned Bihar Land Tribunal, Patna within a period of two months from today with a certified copy of the present order and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioners for condonation of such delay, then the learned Bihar Land Tribunal, Patna shall take into consideration that on a bona fide legal advice, the present writ petition was filed before this Court on 24. 02.2012 and that remained pending till date.

(Birendra Prasad Verma, J)

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