

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16002 of 2015

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Bhubneshwar Bhagat & Anr

.... Petitioner/s

Versus

Asha Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. Sc5- Satya Deo Kumar

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 21-06-2016

Heard learned counsel Mr. Yogendra Prasad Singh for the petitioners and learned counsel Mr. Bijay Kumar Pandey, A.C. to S.C.5 on behalf of respondent nos. 8 to 10.

The plaintiffs-respondents filed the suit for declaration of title after passing of the order for removal of encroachment by the State authorities. The said suit was dismissed for default. Thereafter the plaintiffs filed application for restoration and during pendency of the restoration application the petitioners filed application for dismissal of the restoration application on the ground that defendant no.6 had already died and miscellaneous case has been filed against a dead person. The court below disposed of the said application.

Admittedly, the petitioners are not the heirs of defendant no.6. The suit has been filed for declaration of title against the State authorities. It is not the case of the petitioners that

they are also claiming title or any interest over the suit property on which the order has been passed by the State authorities to remove the encroachment made by the plaintiff. Since the other respondents including the State authorities are there in the miscellaneous case only because defendant no.6 has died, the miscellaneous case will not be incompetent. Therefore, I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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