

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3011 of 2007

=====

Bhola Malakar, son of late Ledhari Malakar, resident of village-Pothia, P.S.-Falka, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Purnea Division, Purnea.
3. The Collector, Katihar.
4. Sub-Divisional Officer-cum-Magistrate, Katihar.
5. Deputy Collector, Land Reforms, Katihar.
6. Circle Officer, Falka, Katihar.
7. Jai Prakash Malakar, son of late Guru Prasad Malakar, resident of Pothia, P.O.-Pothia, P.S.-Falka, District-Katihar.
8. Amod Kumar Sinha, son of late Bhubneshwari Prasad Sinha, resident of village-Khaira, P.S.-Falka, District-Katihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha
Mr. Rakesh Kumar Sinha

For the Respondent nos.1to6 : None

For the Respondent nos.7&8 : None

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 26-07-2016 Heard learned counsel for the petitioner. However, none appears on behalf of the respondents, though the names of the learned State counsel and the learned counsel appearing on behalf of the private respondents are printed in the daily cause list.

The petitioner is aggrieved by the order dated 19.11.2003 passed in Case No.6 of 2003-04 by the respondent Circle Officer, Falka, as contained in Annexure-4 to the writ petition, whereby the claim raised on behalf of the respondent no.7 with respect to the lands in question under Section 48-D of the B.T. Act has been allowed. The appeal preferred by the petitioner was also dismissed by the order dated 27.08.2004 (Annexure-5) passed by the S.D.O., Katihar.

Learned counsel appearing on behalf of the petitioner

has fairly conceded that, despite indulgence granted by this Court by an order dated 10.04.2009, he has not been able to file substitution petition vice deceased respondent no.8. According to him, after the aforesaid order, he has made all efforts and sent several letters to the petitioner, but till date he has not received any instructions; therefore, the aforesaid order dated 10.04.2009 could not be complied with, though the respondent no.8 died before 10.04.2009 itself.

Admittedly, the respondent no.8 is one of the contesting respondents, who is already dead; but steps for substitution has not been taken till date. In that view of the matter, this Court is of the opinion that the present matter has become incompetent and cannot proceed further in absence of heirs and legal representatives of the deceased respondent no.8.

In view of the submissions made by the learned counsel for the petitioner that he is not getting instructions in the present matter, and in view of the fact that the present matter has become incompetent on account of non-substitution of the deceased respondent no.8, the whole writ petition has to fail and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--