

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5024 of 2006

With

Interlocutory Application No. 5450 of 2013

And

Interlocutory Application No. 5625 of 2016

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1. Ram Kumar @ Ram Chandra Naraya son of Late Sri Narayan, resident of Dharamshala, P.S. Sasaram, District Rohtas at Sasaram
2. Krishan Kumar son of Late Sri Narayan, resident of Gandhipath, Dharamshal Road, P.S.Sasaram, District Rohtas at Sasaram
..... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Bhabhua, District Kaimur
3. Circle Officer, Mohania, District Kaimur at Bhabua
4. Manoj Ram son of Sri Sarju Ram
Resident of village Stoobarganj, Police Station Mohania, District Kaimur at Bhabhua
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Uday Singh, Advocate
Mr. Raghunandan Kr.Singh, Advocate
For the Respondent Nos. 1 to 3: Mr. Kundan Bahadur Singh, SC 22
Mr.Madanjeet Kumar, Advocate
For the Respondent No.4 : Mr.Shyam Narayan Pandey, Advocate
Mr.Krishna Chandra Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 20-07-2016

Re: I.A.No. 5450 of 2013 & I.A.No. 5625 of 2016

The Interlocutory Application No. 5450 of 2013 has been filed on behalf of one Arti Kuwar claiming to be the widow of respondent no.4 Manoj Ram with further averments that respondent no.4 died during the pendency of the present writ petition on 07.08.2006. A prayer has been made that she may be substituted in place of original respondent no.4 and she may be permitted to contest the matter.

The Interlocutory Application No.5625 of 2016 has been filed on behalf of the petitioners stating therein that, during the

pendency of the present writ petition, respondent no.4 Manoj Ram has passed away on 07.08.2006 leaving behind his three heirs mentioned in paragraph 2 of the aforesaid Interlocutory Application, one of them is Arti Kuwar, widow of deceased respondent no.4, who is applicant in I.A.No. 5450 of 2013.

From the facts pleaded in the aforesaid two Interlocutory Applications, there is no dispute about the death of respondent no.4 on 07.08.2006.

In above view of the matter, the prayer for substitution is allowed.

Let the name of deceased respondent no.4 Manoj Ram be expunged from array of the parties of the main writ petition and he be substituted by his all the heirs mentioned in paragraph no.2 of I.A. No. 5625 of 2016.

The aforesaid two Interlocutory Applications stand finally disposed of with the observations and directions made above.

Re: CWJC No. 5024 of 2006

On the request of the learned counsel appearing on behalf of the petitioners, the main writ petition has been taken up for consideration on merits.

The petitioners are aggrieved by final order dated 07.11.2000 passed in Homestead Parcha Case No. 10 of 2000-01 by the respondent Circle Officer, Mohania, as contained in Annexure-5, whereby the claim raised on behalf of the original respondent no.4 under the provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short, “the Act, 1947”) with respect to the land in question has been allowed and homestead parcha has been directed to be issued in his favour.

After some arguments, the learned counsel appearing on behalf of the petitioners has fairly conceded that against the order impugned he has an alternative and efficacious remedy before the District Collector under Section 21 of the Act, 1947.

In above view of the matter, he seeks leave of this Court to withdraw this writ petition with a liberty to approach the District Collector, Kaimur for grant of appropriate relief(s) with respect to the land in question as also the order impugned.

Leave is granted.

The writ petition stands dismissed as withdrawn with the liberty aforesaid.

(Birendra Prasad Verma, J)

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