

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1170 of 2014

With

Interlocutory Application No.1634 of 2016

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1. Dulhin Sahodara Kuer, W/O Late Sakhichand Prasad
2. Sabitri Devi, W/O Suraj Prasad
3. Suraj Prasad, S/O Late Sheo Narayan Ram
All Resident Of Mohalla- Alamganj, P.O. + P.S.- Sasaram, District- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue Land Reforms Department,
Government of Bihar, Patna
3. The Principal Secretary, General Administration Department,
Government of Bihar, Patna
4. The District Magistrate, Rohtas
5. The Additional Collector, Land Reforms, Rohtas At Sasaram
6. The Land Reforms Deputy Collector, Sasaram, Rohtas
7. Sri Om Prakash, Land Reforms Deputy Collector, Sasaram, Rohtas
8. Jagdeo Choudhary @ Jaideo Pasi Son Of Late Sukhdeo Pasi Resident Of
Mohalla- Nuranganj, P.O. + P.S.- Sasaram, District- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey, Adv.
Mr. Rakesh Narayan Singh, Adv.
For the Respondent nos.1to6 : Mr. Prashant Kumar, AC to GP-8
For the Respondent no.8 : Mr. Ramashray Roy, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 28-04-2016

Re.-I.A.No.1634 of 2016

The instant Interlocutory Application has been filed purportedly on behalf of the surviving petitioners stating therein that during the pendency of the writ petition petitioner no.1 Dulhin Sahodara Devi has passed away on 03.01.2016 leaving behind her heirs and legal representatives, fully detailed in paragraph 2 of the instant Interlocutory Application, who are already on record as petitioner nos.2 and 3 in the main writ petition.

Learned counsel appearing on behalf of the

respondent no.8 does not raise any objection to the prayer for substitution made in the present Interlocutory Application.

In above view of the matter, the prayer for substitution is allowed. Let the name of the deceased petitioner no.1 be expunged from the array of the parties of the main writ petition and let it be recorded that her heirs and legal representatives are already on record as petitioner nos.2 and 3.

The instant Interlocutory Application is, accordingly, disposed of.

Re.-CWJC No.1170 of 2014

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

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the continuance of Misc.Case No.34 of 2012-13 pending in the court of the respondent D.C.L.R., Sasaram, Rohtas.

Learned counsel appearing on behalf of the petitioners submits that for declaration of right and title, besides other consequential and incidental reliefs, with respect to the lands in dispute, fully detailed in paragraph 5 of the writ petition, Title Suit No.735 of 2009 has already been filed by the respondent no.8, which is still pending before the learned Sub-Judge-V, Sasaram. Therefore, according to him, continuance of Misc.Case No.34 of 2012-13 before the respondent D.C.L.R., Sasaram, Rohtas would be an abuse of the process of the Court, as under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011') the D.C.L.R. has not been vested with the power for cancellation of Jamabandi, already running in the name of the petitioners.

Learned counsel appearing on behalf of the contesting respondent no.8 submits that Misc.Case No.34 of 2012-13 has not been filed for cancellation of Jamabandi, rather it is an appeal filed on behalf of the respondent no.8 and such appeal is maintainable before the respondent D.C.L.R., Sasaram, Rohtas under the provisions of the Act, 2011. However, he fairly conceded that Title Suit No.735 of 2009 has been filed on behalf of the respondent no.8 and his other family members in which the present petitioners have been impleaded as defendants.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that in view of the pendency of Title Suit No.735 of 2009 before the Civil Court, Sasaram, Rohtas with respect to the lands in question in which both sides are parties, it would be in the interest of justice that till final disposal of the aforesaid Title Suit No.735 of 2009 the aforesaid Misc.Case No.34 of 2012-13 is kept in abeyance and it does not proceed further; and once the aforesaid Title Suit is decided and title of either party is declared, then such decree holder(s) shall be entitled to approach the prescribed authority for grant of appropriate relief(s) regarding mutation of lands in question under the provisions of the Act, 2011. It is ordered accordingly.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

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