

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.231 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 14206 of 2001

- =====
1. Satya Narayan Singh, Son of late Jathu Singh, Resident of Village Chandragarh PO , PS Chadragarh, District Supaul.
 2. Bihari Singh, Son of Fusan Singh, Resident of Village Chandragarh, PO , PS Chadragarh, District Supaul.
 3. Uday Mahto, Son of late Ram Khelawan Mahto, resident of Village Ganaura tole Koni, PO PS Ganaura, District Supaul.
 4. Ramdeo Mahto, Son of late Tilai Mahto, resident of Village Ganaura tole Koni, PO PS Ganaura, District Supaul.
 5. Buchchan Mahto, Son of late Tilai Mahto, resident of Village Ganaura tole Koni, PO PS Ganaura, District Supaul.
 6. Ram Prasad Mahto, Son of late Tilai Mahto, resident of Village Ganaura tole Koni PO PS Ganaura, District Supaul.
 7. Rameshwar Mahto, Son of late Khublal Mahto, resident of Village Ganaura tole Koni PO PS Ganaura, District Supaul.
 8. Kusum Lal Sad, Son of late Kusum Lal Musahar, Resident of Village Chandragarh, PO , PS Chadragarh District, Supaul.
 9. Ram Vilas Yadav
 10. Jogi Yadav
 11. Raza Yadav
 12. Rajinder Yadav, All 9 to 12, Son of late Baldeo Yadav, resident of Village Ganaura tole Koni, PO PS Ganaura, District Supaul.
 13. Bhanas Yadav, Son of late Madho Yadav, resident of Village Ganaura tole Koni PO PS Ganaura, District Supaul.
 14. Mehesar Ram, son of late Kunkun Ram, resident of Village Ganaura tole Koni Po PS Ganaura, District Supaul.
 15. Most. Ganga Devi, Wife of Ramji Yadav, resident of Village Ganaura tole Koni Po PS Ganaura, District Supaul.
 16. Kusma devi, Wife of late Munar Yadav, resident of Village Ganaura tole Koni Po PS Ganaura, District Supaul.
 17. Juman Mansuri, Son of late Farjan Ali Mansuri, Resident of Village Chandragarh PO , PS Chadragarh, District Supaul.
 18. Bindeshwar Sao, son of late Kari Sao, Resident of Village Chandragarh PO , PS Chadragarh, District Supaul.
 19. Awadh Narayan Singh, son of late Raghunath Singh, Resident of Village Chandragarh PO , PS Chadragarh, District Supaul.
 20. Kosinder Yadav, Son of late Ram Prasad Yadav, resident of Village Marona tole Khusiali, Po & PS Maraona, District Supaul.
 21. Jiwichi Devi, Wife of Sheolal Yadav, resident of Village Marona tole Khusiali, Po & PS Maraona, District Supaul.

.... Appellant/s

Versus

1. Chandra Mohan Yadav, son of late Magan Yadav, Resident of Village Marauna, PO & PS Marauna, District Supaul.
2. Lal Babu Yadav, Son of late Magan Yadav, Resident of Village Marauna, PO & PS Marauna, District Supaul.
3. Dinesh Kumar Yadav, Son of Chandra Mohan Yadav, Resident of Village Marauna, PO & PS Marauna, District Supaul.



4. Sampat Lal Yadav, Son of Lalbabu Yadav, Resident of Village Marauna, PO & PS Marauna, District Supaul.
5. Shanti Devi, Wife of Balram Yadav and Daughter of Late Magan Yadav, Resident of Village Koniparponch , Tole Bishunpur, Po & PS Marauna, District Supaul.
6. Maharaj Yadav @ Raja Ram Yadav, Son of late Rasi Lal yadav, resident of Village Khusiali, Po & PS Maraona, District Supaul.
7. The State of Bihar.
8. The Commissioner, Kosi Division, Saharsa
9. Additional Collector, Saharsa.
10. Land Reforms Deputy Collector, Saharsa.
11. Nand Kishore Yadav Secretary, District Bhoodan Yagna Committee Supaul District Supaul.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Sarvendra Kumar Verma, Advocate
Mr. Jai Vandhan Narayan, Advocate
For the Respondent/s : Mr. Binod Kr. Yadav, SC-18
Mr. Aditya Nath Jha, AC to SC-18

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 09-12-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 21st of August, 2013 whereby, the writ application was dismissed for the reason that the earlier writ application bearing C.W.J.C. No.5508 of 1986 stood dismissed by the order dated 22nd August, 1997.

3. Learned Single Judge has found that challenge in the earlier writ application is to an order dated 9th of August, 1978 passed by the Deputy Collector, Land Reforms (D.C.L.R.), an order dated 29th of March, 1984 passed by the Additional Collector,



Saharsa and the order dated 25th February, 1986 passed by the Commissioner. Such orders were challenged in C.W.J.C. No. C.W.J.C. No.5508 of 1986 which was dismissed on 22nd of August, 1997, when the following order was passed:

“ The writ petition was filed by the petitioners with certain claims in which one Magan Yadav was made party-Respondent No.1.

The writ petition stood dismissed as against Respondent No.1, Magan Yadav, for non-compliance of this Court's order dated 30th November, 1990. This was brought to the notice of the Court by office, but by order dated 26th April, 1991, it was ordered that the maintainability of the case will be considered at the time of hearing of the case.

Subsequently, the said Respondent No.1 died in the year 1994 and the same was brought to the notice of this Court by petition filed by his heirs at Flag-O. In spite of the same, no step was taken on behalf of the petitioners to restore the writ petition against the original Respondent No.1, Magan Yadav and/or to substitute his heirs as party-Respondents. In absence of Magan Yadav, this writ petition cannot proceed.

Accordingly, the writ petition is dismissed being not maintainable.”

4. It is thereafter the present writ petition was filed in 2001 which stands dismissed by the order impugned in the present appeal.

5. Learned counsel for the appellant vehemently argued that the earlier writ application was not dismissed on merits and, therefore, there could not be any *res judicata*, as has been held by the learned Single Bench.



Learned counsel for the appellant is right in law to that extent that it will not amount to *res judicata*, but the fact remains that challenge to the said orders remained unsuccessful in earlier writ petition. Once the writ petition is dismissed, the appellant cannot file another writ petition challenging the same orders. The dismissal of the writ petition on any ground amounts to merger of the orders under challenge in the order passed by this Court. The appellants had to seek their remedy against the order passed by the learned Single Bench on 22nd of August, 1997. Since the said order has not been disputed in any manner, the subsequent writ petition challenging the same orders is not maintainable. A Co-ordinate Bench cannot sit over the judgment passed in the earlier writ application.

6. Consequently, we do not find any merit in the present Appeal.

7. The present Appeal is accordingly dismissed.

(Hemant Gupta, J)

(Vikash Jain, J)

K.C.jha/-

AFR/NAFR	AFR
CAV DATE	N/A
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