

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2008 of 2014

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1. Raj Kishor Singh Son Of Late Yogendra Prasad Singh Resident Of Village - Garhi Vishanpur, P.S. + District - Lakhisarai
 2. Ramayan Singh Son Of Late Biran Singh Resident Of Village - Garhi Vishanpur, P.S. + District - Lakhisarai
 3. Shail Devi Widow Of Late Mathura Singh Resident Of Village - Garhi Vishanpur, P.S. + District - Lakhisarai

.... Petitioner/s

Versus

1. Indrakala Devi Widow Of Late Jagdish Singh Resident Of Village - Garhi Bishanpur, P.S. + District - Lakhisarai
2. Madan Singh Son Of Late Jagdish Singh Resident Of Village - Garhi Bishanpur, P.S. + District - Lakhisarai
3. Rajesh Singh Son Of Late Jagdish Singh Resident Of Village - Garhi Bishanpur, P.S. + District - Lakhisarai
4. Rakesh Singh Son Of Late Jagdish Singh Resident Of Village - Garhi Bishanpur, P.S. + District - Lakhisarai
5. Baby Devi Daughter Of Late Jagdish Singh Resident Of Village - Garhi Bishanpur, P.S. + District - Lakhisarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAJ BANSI DUBEY

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 27-06-2016

Heard learned counsel appearing on behalf of the petitioners.

2. The only submission on behalf of the petitioners is that the learned court below should have held the suit to have become incompetent after abatement of the same as against defendant no. 2 Mathura Singh and defendant nos. 3 Upendra Singh.

3. Learned counsel for the petitioners has, however,

submitted that there has been no such petition filed by the petitioners before the learned court below for holding the Suit to have become incompetent after its abatement upon dismissal of substitution petition in that regard.

4. After considering submissions of the learned counsel for the petitioners and on perusal of the impugned order it appears that there was no such prayer made by the defendants-petitioners for holding the suit to have become incompetent and, therefore, there was no occasion for the court below to hold that the suit in question has become incompetent due to its abatement as against defendant nos 2 and 3.

5. This writ application is, accordingly, dismissed with liberty to the petitioners to file appropriate application in the court below itself, in accordance with law, which if filed will be heard and disposed of on its own merit by passing appropriate order in this regard.

(V. Nath, J)

Amin/-

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