

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1634 of 2013

IN

Civil Writ Jurisdiction Case No. 16641 of 2004

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1. Keshav Choupal Son Of Shukal Khatwe @ Shukal Khatauna Resident Of Village Kusmoul, P.S. - Bhargama, District - Araria
2. Narayan Choupal Son Of Shukal Khatwe @ Shukal Khatauna Resident Of Village Kusmoul, P.S. - Bhargama, District - Araria
3. Abdesb Choupal @ Abdhesh Choupal Son Of Shukal Khatwe @ Shukal Khatauna Resident Of Village Kusmoul, P.S. - Bhargama, District - Araria
.... Appellant/s

Versus

1. The State Of Bihar through the Collector, Dist. Araria
2. The Sub Divisional Officer, Forbesganj, Dist. Araria
3. The Circle Officer, Bhargama, Circle Bhargama, District - Araria
4. Bugani Devi @ Bugni Devi W/O Late Resham Lal Das, Daughter Of Late Saryug Das Resident Of Village - Kusmaul, P.S. - Bhargama, District - Araria

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. R.C.Thakur
Mr Kamal Kishor Singh
Mr Anil Kumar
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 10-05-2017

Respondent no.4 in the present Letters Patent Appeal was the petitioner in CWJC No.16641 of 2004. The issue arose out of certain decisions and proceeding initiated under Section 48D of the Bihar Tenancy Act, 1885. The writ application was heard. It was allowed. The appellate order passed by the Sub-Divisional Officer, Forbesganj was set aside and the order of Anchal Adhikari, Bhargama



was restored.

Appeal has been filed on behalf of the present appellants, who were respondents in the writ application, seeking setting aside the order dated 27.06.2013 of the learned Single Judge. When the matter was taken up, the Court was informed that Bugani Devi, the petitioner in the writ, had already died on 2.5.2012. However, the judgment/ order in the writ application was passed on 27.06.2013. The order, therefore, was passed after the death of the petitioner of the said writ. This fact was neither brought to the notice of the learned Single Judge nor any steps for substitution of Bugani Devi was taken by seeking any modification/ clarification of the said order. In normal course of things, the writ application itself should have abated.

Bugani Devi was represented by a counsel, namely, Amrit Abhijat. The Court requested him to seek inputs and may be bring legal heirs before the Court so that their interest is not adversely affected. He did make an effort but expressed his helplessness in view of lack of cooperation from the side of the legal heirs, if there is one.

Bugani Devi, respondent no.4, is, therefore, deleted.

In view of the above facts, the Court holds that the decision of the learned Single Judge passed on 27.06.2013 would be a



non est order since it has been passed after the death of the sole petitioner, who has not yet been substituted also at any stage. However, if any legal heirs do emerge, they can have recourse to law but so far as this appeal is concerned, the same stands disposed of with the observation as above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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