

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13354 of 2014

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Navin Singh son of Late Ras Bihari Singh, resident of Village- Sheonar, Police Station- Mokama, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Collector, Patna
3. D.C.L.R., Barh (Patna)
4. Anchal Adhikari, Mokama (Patna)
5. Deo Nandan Paswan @ Deo Nandan Das, son of Late Lakhan Das.
6. Ram Chander Singh son of Late Ras Bihari Singh resident of Village- Sheonar, Police Station- Mokamah, District- patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukul Prasad

For the Respondent/s : Mr. SC20

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2017

I.A. No. 5436 of 2015

Counsel for the petitioner is permitted to make necessary correction in the I.A.

The abovementioned interlocutory application has been filed for substituting the legal heirs of sole petitioner, Navin Singh, who died on 20.04.2015. A statement has been made in paragraph 3 of the I.A. that the sole petitioner died on 20.04.2015 leaving behind his only son, Sudhir Prasad Singh. Hence, he should be substituted in place of the sole deceased petitioner, Navin Singh and the name of petitioner be permitted to be expunged. The death



certificate has been brought on record as Annexure-1 to the I.A. along with the Vakalatnama on behalf of legal heir Sudhir Prasad Singh.

Accordingly, I.A. No. 5436 of 2015 stands disposed of.

The name of the sole petitioner be expunged and the name of legal heir Sudhir Prasad Singh be impleaded.

The writ application has been filed for quashing of the order dated 23.05.2013, passed in Encroachment Appeal No. 03 of 2008-09, as contained in Annexure-7, whereby Encroachment Appeal No. 03 of 2008-09, which has been described as Encroachment Case No. 03 of 2008-09, has been admitted.

This Court is not inclined to issue notice to respondent nos. 5 and 6 in view of the nature of order, this Court intends to pass.

The factual matrix suggests the casual manner in which a summary proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') is being kept pending between the Court of Collector, Patna and D.C.L.R., Barh. Initially, Encroachment Case No. 04 of 1978-79, was initiated with regard to the encroachment over khata no. 95, survey plot no. 365 situated in village Sheohar, P.S. Mokama, District – Patna. Circle Officer, Mokama vide order dated 08.02.1980, directed the



encroachers to remove the encroachment from plot no. 365, as contained in Annexure-1. The said order was challenged in Encroachment Appeal No. 19 of 1980-81. The then Collector, Patna vide order dated 26.04.1983, as contained in Annexure-2, remanded the matter to D.C.L.R., Barh. On remand the D.C.L.R., Barh vide order dated 24.11.1993 dropped the encroachment proceeding, as contained in Annexure-3. Thereafter, one Lakhon Das, father of respondent no. 5, filed a petition before D.C.L.R., Barh for reopening the proceeding, wherein vide order dated 30.11.1993, as contained in Annexure-4, notice was issued to other side, but Deo Nandan Paswan, respondent no. 5, preferred Encroachment Appeal No.03 of 2001-02 before the Collector, Patna and the Collector, Patna vide order dated 02.03.2007 again remanded the matter to D.C.L.R., Barh, as contained in Annexure-5. On remand the D.C.L.R., Barh vide order dated 30.08.2008, as contained in Annexure-6, again dropped the proceeding. Against the said order Deo Nandan Paswan, respondent no. 5, preferred Encroachment Appeal No. 03 of 2008-09, which has wrongly been described as Encroachment Case No. 03 of 2008-09, as contained in Annexure-7, wherein Collector, Patna vide order dated 23.05.2013 admitted the appeal, hence, the present writ application.

The abovementioned facts depict the callous manner in which the quasi judicial functions are being carried out by



the authorities of the district.

Counter affidavit filed on behalf of respondent no. 2, Collector, Patna, respondent no. 3, D.C.L.R., Barh and respondent no. 4, Circle Officer, Mokama does not reflect the reason for dragging the encroachment proceeding since last around 40 years.

In the circumstances, the District Magistrate, Patna is expected to dispose of the pending encroachment appeal being Encroachment Appeal No. 03/2008-09, within a period of four weeks from the date of receipt/production of a copy of this order.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2017
Transmission Date	NA

