

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14069 of 2009

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1(i) Lal Keshar Devi, Wife of Late Ram Dahin Singh
1(ii). Srikant Sharma, Son of Late Ram Dahin Singh
1(iii). Radhakant Sharma, Son of Late Ram Dahin Singh
1(iv). Sanjay Kumar, Son of Late Ram Dahin Singh
All resident of Village- Bhauli Post Office- Jhinguri, Police Station-
Pauthu, District- Aurangabad.

.... Petitioners

Versus

1. The State of Bihar
2. The Commissioner, Magadh Division, Gaya
3. The Collector, Aurangabad
4. The Deputy Collector Land Reforms at Daudnagar within the District Of
Aurangabad
5(i) Rani Devi W/O Late Ramnandan Singh.
5(ii) Devendra Kumar, Son of Late Ramnandan Singh
5(iii) Ravindra Kumar, Son of Late Ramnandan Singh
5(iv) Surendra Kumar, Son of Late Ramnandan Singh
6. Shri Jugeshwar Singh Son of Late Binda Singh
Respondents No- 5 and 6 are residents of Village- Bhauli Post Jhinguri
Police Station- Pauthu, District- Aurangabad

.... Respondents

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Appearance :

For the Petitioners : Mr.Hemendra Pd. Singh, Sr. Adv.
Mr. Mrigendra Kumar, Adv.
For the State : Mr. Umesh Nr. Dubey, AC to GP-27
For the Private Respondents: Mr. Manish Kumar No. 2, Adv.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

6 07-02-2017 1. Heard learned counsel for the petitioners, learned
counsel appearing for the private respondents as well as learned
counsel appearing for the State.

2. Original petitioner, namely, Ram Dahin Singh
filed this writ petition for quashing the order dated 17.03.2006,
annexed as Annexure-2 to this petition, passed by the DCLR,



Daudnagar district Aurangabad in Original Case No. 9 of 2004-2005 by which he rejected the preemption claim of original petitioner and also for quashing the order dated 05.07.2007, annexed as Annexure-3 to this petition, passed by the Collector, Aurangabad in Ceiling Appeal No. 65 of 2006 by which he dismissed the aforesaid ceiling appeal which had been filed against the order dated 17.03.2006 passed by DCLR, Daudnagar, Aurangabad and also for quashing the order dated 07.05.2009 passed by the Commissioner, Magadh Division at Gaya in Land Ceiling Revision Case No. 82 of 2007 by which he affirmed the order dated 17.03.2006 passed by DCLR, Daudnagar and order dated 05.07.2007 passed by the Collector, Aurangabad.

3. The fact, which goes to file this writ petition, is that respondent no. 6, namely, Jugeshwar Singh transferred Khata No. 42, Plot No. 378 Area 23½ decimal situated at village Bhauli, P.S. Pauthu, District, Aurangabad by executing registered sale deeds in favour of one Indu Kumari Verma, wife of late Jagdish Singh of Village Bhauli P.S. Pauthu, District, Aurangabad. The original petitioner, being adjoining raiyat of the aforesaid plot, made claim of the preemption under Section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 before the DCLR, Daudnagar but during



pendency of the aforesaid proceeding, the vendee Indu Kumari Verma died issueless and her husband was predeceased to her. Thereafter, the full brother of husband of Indu Kumari Verma, namely, Ramnandan Singh appeared in the aforesaid proceeding suo mottu and claimed himself to be legal heir of deceased, Indu Kumari Verma and prayed for substitution. The aforesaid Ramnandan Singh was made party to the aforesaid proceeding vide order dated 15.04.2005 but subsequently, the DCLR, Daudnagar dismissed the petition of original petitioner on the ground that Ramnandan Singh was not legal heir of deceased, Indu Kumari Verma and in absence of substitution of legal heir, the proceeding could not be continued. The aforesaid dismissal order was passed on 17.03.2006 against which the original petitioner filed Ceiling Appeal No. 65 of 2006 before the Collector, Aurangabad but the Collector, Aurangabad dismissed the aforesaid appeal passing order dated 05.07.2007 affirming the order of DCLR, Daudnagar. However, the original petitioner challenged the order of both courts below before the Commissioner, Magadh Division at Gaya but he again failed in his attempt. The Commissioner, Magadh Division at Gaya, too, affirmed the order of both the courts below.

4. Learned counsel appearing for the petitioners



submits that when the Ramnandan Singh appeared before the DCLR, Daudnagar and claimed himself to be legal heir of vendee Indu Kumari Verma, no objection was raised on behalf of original petitioner and the aforesaid Ramnandan Singh was substituted as legal heir of vendee Indu Kumari Verma. However, while dismissing the claim of the original petitioner, the DCLR, Daudnagar in impugned order dated 17.03.2006 wrongly mentioned that objection had been raised by original petitioner in respect of substitution of Ramnandan Singh. It is further submitted by him that all the above stated courts failed to take note of this fact that except Ramnandan Singh, no one turned up before the courts to claim himself to be legal heirs or legal representatives of Indu Kumari Verma and therefore, in the aforesaid circumstance, the impugned orders cannot be sustained in the eye of law.

5. Learned counsel appearing for the private respondents refuted the above stated submissions arguing that DCLR, Daudnagar clearly mentioned in the impugned order that Ramnandan Singh was not legal heir of deceased Indu Kumari Verma and therefore, the aforesaid fact goes to show that DCLR, Daudnagar made an enquiry regarding the legal representatives of deceased, Indu Kumari Verma and came to conclusion that Ramnandan Singh was not the legal heir of deceased, Indu Kumari



Verma. He further submitted that original petitioner failed to bring the legal heirs/legal representatives of deceased Indu Kumari Verma on record and that was the reason, the DCLR, Daudnagar rejected the claim of original petitioner as the proceeding against deceased had already abated.

6. Having heard the rival contentions of the parties, I went through the record. The impugned order dated 17.03.2006 goes to show that DCLR, Daudnagar rejected the petition filed under Section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 by the petitioner only on the ground that Ramnandan Singh was not the legal heir of deceased Indu Kumari Verma and no order could have been passed against dead person. Moreover, Annexure-2A goes to show that vide order dated 15.04.2005, in same proceeding the DCLR, Daudnagar impleaded Ramnandan Singh as party to the above stated proceeding. However, there is nothing on the record to show that except Ram Nanda Singh, any other person came before the DCLR, Daudnagar to claim himself to be legal representatives or legal heirs of the deceased Indu Kumari Verma nor the name of any other legal representative/legal heir was brought to the notice of the DCLR, Daudnagar. In course of hearing of this matter, learned counsel appearing for the private respondents also did not



bring the name of any other person as legal heirs or legal representatives of the deceased Indu Kumari Verma and, therefore, it is obvious that except Ramnandan Singh none has turned up to claim himself as legal representatives or legal heirs of the deceased Indu Kumari Verma.

7. It is well settled principle of law that if any dispute arises in respect of legal heirs of a deceased, the court is duty bound to make enquiry and decide the matter in accordance with law but in the present case, it appears that the DCLR, Daudnagar did not take any pain to decide the issue of legal heir of deceased Indu Kumari Verma, even if it is accepted that there was dispute regarding the legal heirs of deceased Indu Kumari Verma and, therefore, in my view, all the above stated impugned orders passed by different authorities are not in accordance with law and are liable to be quashed.

8. In the result, this writ petition stands allowed and the impugned orders dated 17.03.2006 passed by the DCLR, Daudnagar in Original Case No. 9 of 2004-2005, order dated 05.07.2007 passed by the Collector, Aurangabad in Ceiling Appeal No. 65 of 2006 and order dated 07.05.2009 passed by the Commissioner, Magadh Division at Gaya in Land Ceiling Revision Case No. 82 of 2007 are hereby quashed and the matter



is remitted back to the court of DCLR, Daudnagar, district Aurangabad with direction to him to decide the issue of legal heir of deceased, Indu Kumari Verma and dispose of the petition filed under Section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 in accordance with law within three months from the date of receipt/production of copy of this order.

(Hemant Kumar Srivastava, J)

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