

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1264 of 1998

1(a) Shailendra Kumar
(b) Kamlesh Kumar
(c) Bimlesh Kumar
(d) Usha Kumari
(e) Sushila Devi
(f) Manju Devi

... .. Petitioner/s

Versus

1 (a) Sheoratia Devi
(b) Suresh Singh
(c) Ramesh Singh
(d) Samir Singh
(e) Ujwal Singh
(f) Urmila Devi
(g) Pintu Devi
2(a) Sugani Devi
(b) Surendra Singh
(c) Vijay Kumar Singh
(d) Ajai Kumar Singh
(e) Binda Devi
(f) Hiramati Devi
(g) Santra Devi
3. Ragho Singh
4. Ramawati Devi
5. Ramprit Bhagat
6. Ram Sunder Sah
7(a) Bachani Devi
(b) Raj Kishor Prasad
(c) Harendra Prasad
(d) Ajay Prasad
(e) Rajesh Prasad
(f) Sunita Devi
(g) Manju Devi
(h) Rinku Devi
8. Rajendra Sah
9. Kamal Sah
10. Basant Prasad
11. Ram Ashrey Prasad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, advocate
Mr. Raghav Prasad
For the Respondent/s : Mr. S. S. Dwivedi, Sr. advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA



ORAL ORDER

16 28-11-2018 Heard Mr. Binod Kumar Singh, learned counsel for the petitioners, and Mr. S. S. Dwivedi, learned senior counsel for the opposite parties.

I. A. No. 9195 of 2017 is filed for substitution of sole petitioner, Vidya Prakash Singh, who died on 10.11.2017 leaving behind his three sons and three daughters, fully described in paragraph 2 of the I.A. The substitution petition is well within time.

I. A. No. 9195 of 2017 is allowed.

Let the name of sole petitioner be expunged and names of his legal heirs, fully described in paragraph 2 of the I.A. be substituted. The legal heirs have already appeared by filing vakalatnama.

C. R. No. 1264 of 1998

This petition is filed against the order dated 28.05.1998 passed by learned Additional District Judge-VI, Siwan in Misc. Appeal No. 51 of 1993 by which the learned Additional District Judge refused to adjourn the hearing of Misc. Appeal No. 51 of 1993 till disposal of Second Appeal No. 286 of 1989 pending in this court.

Learned counsel for the petitioner submits that petitioners filed Title Suit No. 117 of 1974 for declaration of



title, confirmation of possession and recovery of possession after removal of encroachment from the purchased land of the petitioners. The suit was dismissed. The petitioners filed Title Appeal No. 33 of 1984/ 85 of 1987 but Title Appeal was also dismissed. The petitioners preferred S. A. No. 286 of 1989 but in the meantime the decree holder filed execution case for realization of cost awarded to the decree holder and for realization of cost the land of the petitioners was auctioned. The petitioners filed petition under Order 21 Rule 90 of the C.P.C. for setting aside the auction sale of the land of petitioners but the same was dismissed. Against that order the petitioners filed M. A. No. 51 of 1993. During the pendency of Misc. Appeal No. 51 of 1993 the petitioners filed a petition to adjourn the case for hearing after disposal of Second Appeal No. 286 of 1989. It is submitted that Second Appeal No. 286 of 1989 has already been allowed and the judgement and decree of first appellate court and original court have been set aside the matter has been remitted for hearing afresh in accordance with direction given therein but the Misc. Appeal No. 51 of 1993 is still pending for hearing.

Having considered the submission of the parties, I find that since the Second Appeal No. 286 of 1989 has already



been disposed of and the judgement and decree of first appellate court and original court have been set aside, this Civil Revision filed for adjourning the Misc. Appeal No. 51 of 1993 for hearing after disposal of S.A. No. 286 of 1989 has become infructuous. Accordingly, this Civil Revision petition is dismissed as has become infructuous.

(Prabhat Kumar Jha, J)

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