

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.399 of 2019

In
Civil Writ Jurisdiction Case No.13489 of 2018

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1. Shamim S/o Abdul Gafur Resident of Village- Majhaili, P.S- Muffasil Ranipatra, District- Purnea.
 2. Lalan Kumar Sinha @ Lalan Kumar Singh S/o Late Vinod Lal Das Resident of Village- Maharajpur, P.S- Muffasil Ranipatra, District- Purnea.
 3. Nageshwar Paswan S/o Late Jageshwar Paswan Resident of Village- Harda, P.S- K. Hat, District- Purnea.
 4. Hasina Bano W/o- Md. Tafjul Resident of Village- Sheikhpura, P.S- Muffasil Ranipatra, District- Purnea.
 5. Hasina Khatoon W/o- Md. Nayeem Resident of Village- Uchitpur, P.S- Muffasil Ranipatra, District- Purnea.
 6. Fulwaque Khatoon W/o Majibur Rahman Resident of Village- Fasiya, P.S- Muffasil Ranipatra, District- Purnea.
 7. Jeevan Das S/o Late Balram Resident of Village- Maranga, P.S- Lalganj, District- Purnea.
 8. Bibi Mahtari Khatoon W/o Tanveer Alam Resident of Village- Vasantpur, P.S- Sadar, District- Purnea.
 9. Md. Asfaque Alam S/o Md. Abbas Resident of Village- Pokhariya, P.S- Muffasil Ranipatra, District- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar Through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary Panchayati Raj Department, Govt. of Bihar, Patna.
3. The Director Panchayati Raj Department, Govt. of Bihar, Patna.
4. The District Magistrate Purnea.
5. The Sub- Divisional Officer Purnea District- Purnea.
6. The Block Development Officer Purnea East -cum- Executive Officer, Panchayat Samiti- Purnea East, District-Purnea.
7. Ruchi Devi W/o not Known to the appellants
8. Meena Devi W/o not known to the appellants
9. Md. Khurshid Alam S/o not known to the appellants
10. Liliya Devi W/o Shri Jitendra Mahaldar Resident of village- Virpur, P.S.- Muffasil Ranipatra, District- Purnea.
11. Babuji Soren S/o Dena Soren Resident of Village- Rampur, P.S.- Muffasil Ranipatra, District- Purnea.
12. Mahesh Kumar Chauhan S/o not known to the appellants
13. Ashok Rishi S/o Late Triloki Resident of Village- Himtiyarpur, P.S.- Muffasil Ranipatra, District- Purnea.



14. Ramchandra Chauhan S/o Shri Jabani Chouhan Resident of Village- Majhua, P.S.- Muffasil Ranipatra, District- Purnea.
Respondents No. 7 to 14 are the Members of Panchayat Samiti- Purnea East through the Block Development Officer- cum- Executive Officer, Block Panchayat Samiti- Purnea East, P.O- Purnea, P.S.- Muffasil Ranipatra, District- Purnea.
15. Santosh Kumar Rai S/o Shri Binod Kumar Rai Resident of Village- Simalgachhi, P.O.- Pokharia, P.S.- Muffasil Ranipatra, District- Purnea.
16. Meena Devi W/o- Shri Shivanand Rajbanshi Resident of Village- Mahendrapur, P.O.- Bhaga Bhatgawa, P.S.- Muffasil Ranipatra, District- Purnea.

... ... Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shri Prakash Srivastava, Advocate Mr. Amit Kumar Anand, Advocate Mrs. Anu Priyadarshi, Advocate
For Respondent State	:	Mr. Manish Kumar, A.C. to AAG-6
For Respondent Nos. 15,16:		Mr. S.B.K. Mangalam, Advocate Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-07-2019

Heard learned counsel for the parties.

2. We have gone through the judgment in the case of **Madhubala Singh Vs. The State of Bihar & Ors**, reported in **2015 (3) PLJR 491**. The liberty given by the learned Single Judge already exists on record. We had noticed this in our order dated 8th May, 2019, which is reproduced hereinunder:-

“We have heard learned counsel for the appellants and we find that the learned single Judge has dismissed the writ petition finding it to be covered by the judgment of the



Division Bench in the case of **Sheikh Hassmuddin Vs. State of Bihar [2015 (3) PLJR 203]**.

What we further find from the provision of Section 44 of the Bihar Panchayat Raj Act, 2006 is that there is no bar for serving a fresh proper notice in accordance with the provisions of the Act. To this extent, the learned single Judge has left it open to the appellants at liberty to bring a fresh requisition in this regard.

We have come across another judgment of a learned single Judge in the case of **Madhubala Singh Vs. State of Bihar [2015 (3) PLJR 491]**, where in order to overcome this difficulty of the *Pramukh* either not receiving the notice or avoiding to receive the notice, a direction was issued to serve the notice under the orders of the Court.

The contention of the learned counsel for the appellants is that the *Pramukh* and *Up-Pramukh* are virtually adopting all avoidable methods and therefore the notice cannot be thrust upon them in the absence of any other alternative procedure provided under the Act. For this purpose only, we issue notice to the respondent-petitioner Nos. 15 and 16, by both modes i.e. under registered cover with A/D as well as under ordinary process, calling upon them to answer the aforesaid proposition by the next date fixed.



Steps for service of notice be taken within a week.

List on 24th June, 2019.”

3. It is in this background that we dispose of this appeal with liberty to the appellants to serve the requisition on Respondent No. 15 on 20th of July, 2019. We further direct the authorities to ensure that the law as laid down in the case of **Madhubala Singh** (supra) in Paragraph 5 shall be adhered to.

4. The appeal stands disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Jagdish/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.07.2019
Transmission Date	

