

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.124 of 2011

1. Saheb Alam, aged about 33 years, Gender- Male
2. S. Anjarul Hassan (Saiyed Anjarul Hassan) about 27 years, Gender – male
3. Sayad Zahid Hasan about 21 years, Gender – Male
4. Syed Imran Hasan about 20 years, Gender – Male
5. Syed Ibran Hasan about 19 years, Gender – Male All are sons of late Syed Samiul Hassan
6. Nujhan Hasmi about 28 years, Gender- Female
7. Nargish Ara about 23 years, Gender – Female Both are daughters of late Syed Samiul Hassan, All are residents of Ward No.12, Tajpur Milki, Gonchhi, P.O.- Kesariya, P.S. - Kesariya, District, East Champaran

... .. Petitioner/s

Versus

1. SYED ABDULLAH, son of late Syed Hefazat Karim, resident of village, Gonchhi Tajpur Patkhauliya, Milki Tola, Police Station, Keshariya, District, East Champaran
.....Opp. Party 1st Set / respondent /opp. Party
2. Md. Zafirullah, son of Yunus
3. Kamrul Imam Khan, son of late Shah Mohammad Khan
4. Zakir Ahmad, son of late Md. Insan Khan
5. Reyaz Ahmad Khan, son of late Gul Mohammad Khan, All resident of village – Kundwa, P.O. + P.S. Keshariya, District, East Champaran
6. Fateh Ahmad Khan, son of late Wasir Ahmad Khan, resident of village – Bairiya, P.O. + P.S. Keshariya, District, East Champaran
7. Md. Ekbal Hussain, son fo late Dharichhan Mian
8. Sk. Mohammad Taslim, son of late Roj Hadish
Both resident of village – gonchhi Tajpur Patkhauliya Milki Tola, P.O. + P.S. Keshariya, District, East Champaran
Opp. Parties 2nd set / Respondent 2nd Set / opposite parties ...
9. Mostt. Biwi Tamisun Nisha wife of Syed Safiul Hasan
10. Syed Garibul Hasan @ Tunnu
11. Syed Amirul Hasan @ Munnu
12. Syed Tahirul @ Chunnu , All sons of late syed Safiul Hasan , All residents of village – gonchhi Tajpur Patkhauliya Milki Tola, P.O. + P.S. Keshariya, District, East Champaran
13. Bibi Samima Khatoon, wife of Syed Md. Mumtaz, daughter of late Syed Safiul Hasan, resident of village, Ladaura, P.O. + P.S. - Pakari, District- Muzaffarpur
.....Applicant / respondent 3rd set / opp. Party

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr.Dhurendra Kumar, Advocate
For the Respondent/s	:	Mr. Ramadya Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-09-2019

I.A. No.3 of 2019:

Heard.

This interlocutory application has been filed for expunging the name of deceased sole appellant who is stated to have died on 03.04.2019 during the pendency of this application leaving behind his legal heirs and representatives as detailed in paragraph no.2 of the substitution petition and for substitution of his legal heirs and representatives.

The substituted heirs and legal representatives as detailed in paragraph no.2 of the petition have already appeared through their counsel. Petition is within time.

In view of the above, let the name of deceased sole petitioner be expunged and his legal heirs and representatives as detailed in paragraph no.2 of the substitution petition, be substituted in his place.

I.A. No.3 of 2019 stands allowed.

C.R. No.124 of 2011:

Heard.

This civil revision application has been filed for setting aside the judgment and order dated 07.05.2011 passed by 7th Additional District Judge, East Champaran, Motihari in Misc. Appeal No.18 of 2010 dismissing the appeal under Section 37



of the Arbitration and Conciliation Act and affirming the order of Sub-Judge-I, Motihari, East Champaran dated 25.06.2010 in Misc. Case No.18 of 2003 refusing to set aside the arbitral award dated 8.9.2003 filed under Section 34 of the Arbitration and Conciliation Act, 1996.

A Division Bench of this Court in case of Shivam Housing Private Ltd. & Ors Vs. Thakur Mithilesh Kumar Singh & Ors since reported in 2015(3) PLJR 876, has held that under provisions of Arbitration and Conciliation Act, 1996 the District Judge and not the Sub-Judge is the principal civil court of original jurisdiction as such any petition under Section 34 or 36 of the Arbitration and Conciliation Act for setting aside the arbitral award or execution of Arbitral Award is maintainable before the District Judge and not before Sub-Judge.

Accordingly, the order passed by in Misc. Case No.18 of 2003 filed under Section 34 of the Act for setting aside the arbitral award by the Sub-Judge under original jurisdiction as well as order passed by the District Judge as appellate court was without jurisdiction.

Accordingly, the original order as well as the appellate order is set aside and the matter is remitted to the court of District Judge, East Champaran, Motihari who shall decide



the matter in accordance with the judgment and order passed by this Court in case of Shivam Housing Private Ltd. & Ors (Supra).

This civil revision petition stands disposed of.

Let the LCR be returned to the court of District Judge, East Champaran, Motihari who shall decide the application filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1966 for setting aside the arbitral award after giving opportunities to both the parties.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.10.2019
Transmission Date	NA

