

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.771 of 2019
In
Civil Writ Jurisdiction Case No.9050 of 1989

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1. Sandali Devi W/o Rajesh Singh Resident of Village-Chhitauni, Post-Chhitauni, District-Baranasi
 2. Sabitri Devi W/o Pramod Kumar Singh Resident of Village-Rampur, P.O.-Rampur, District-Ghazipur
 3. Chhaya Kumari D/o Late Hausila Singh, W/o Manoj Kumar Singh Resident of Village-Moie, P.O.-More Purani Bazar, District-Bhadohi (U.P.)
 4. Bikash Singh @ Guddu Singh Son of Late Haushila Singh Resident of Village-Birbhanpur, P.S.-Chand, District-Kaimur (Bhabhua)
 5. Awkash Singh @ Yogesh Kumar Vimal @ Yogesh Kumar Singh Son of Late Haushila Singh Resident of Village-Birbhanpur, P.S.-Chand, District-Kaimur (Bhabhua)
 6. Prakash Singh @ Suddu Singh Son of Late Haushila Singh Resident of Village-Birbhanpur, P.S.-Chand, District-Kaimur (Bhabhua)
 7. Priti Kumari @ Khushbu D/o Late Hausila Singh, W/o Alok Singh Resident of Village-Sidhana, P.O.-Bhujana, P.S.-Saiyadraja, District-Chandauli (U.P.)
 8. Chhana Kumari @ Chhama Kumari D/o Late Hausila Singh, W/o Sujit Singh Resident of Village-Baraipur, P.S.-Adalhat, District-Mirjapur (U.P.)

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. The Collector Rohtas at Sasaram
3. The Deputy Collector Land Reforms, Bhabhua, District-Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. K.N. Coubey, Sr. Adv. Mr.Shrawan Kumar Singh
For the Respondent/s	:	Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

12 17-10-2022

The only objection in the present appeal raised

by Mr. K.N. Choubey, the learned senior Advocate for the



appellants is that the learned Single Judge did not decide the substitution application, which had been filed for substituting the erstwhile petitioner No. 1 in the writ petition with his legal heirs as he had died during the pendency of the writ petition but decided the matter only on the basis of the answer to the reference in Haurila Singh and Others v. State of Bihar, which took note of the decision in case of **Mahant Siyaram Das and Another v. State of Bihar and Other, (1985 PLJR 101)** by which, the findings and decisions of this Court in **Kesara Devi v. State of Bihar (1984 PLJR 209)** has been overruled.

Keeping in mind the aforesaid verdict of the Court in Mahant Siyaram Das (supra), the Full Bench in Haurila Singh and Others, answered the reference in terms of the decision in Mahant Siyaram Das as also in terms of the provisions contained in 45-D of the Bihar Land Ceiling Act, 1961 by which Section 45-D of the Act stands repealed and proceedings pending before the State Government or B.L.T is deemed to have been abated and the proceedings re-opened earlier under deleted section of



45D and pending before the Collector also stood abated.

While answering the reference in the manner as stated above, the cases were referred to the respective benches for their disposal on merits.

Mr. Choubey laments that the mandate of the Full Bench that in view of the verdict of Mahant Siyaram Das and 45D of the Land Ceiling Act, 1961, the cases of respective petitioners had to be decided on merits was not followed. The Learned Single Judge, it has been urged, did not follow the aforesaid mandate and without deciding the substitution application, which was on record, disposed of the case, giving liberty to the petitioners in the aforesaid writ petition to raise such issues before an appropriate forum, in accordance with law, if the same is found to be permissible.

Mr. Choubey submits that this has left the appellant/writ petitioner absolutely high and dry so far as his contentions and rights are concerned.

Considering the fact that the substitution petition had not been disposed of and the factual issues raised in



the writ petition was not gone into, we set aside the order dated 17.06.2019 and remit the case to the learned Single Judge with a request to hear out the writ petition and pass a reasoned order in accordance with law.

The appeal stands allowed accordingly.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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