

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1624 of 2017

Yoginder Yadav S/o Late Siri Yadav, R/o Village Kanap, P.S. Daudnagar,
District- Aurangabad.

... .. Petitioner/s

Versus

1. Ram Pravesh Sharma
2. Naresh Sharma Both S/o Shri Brahmdeo Sharma, R/o Village Kanap, P.S. Daudnagar, District- Aurangabad.
3. Yugeshgwar Yadav, S/o Late Siri Yadav
4. Chanarik Mahto @ Chandrika Mahto, S/o Late Sadhu Mahto Both R/o Village Kanap, P.S. Daudnagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Advocate
For the Respondent/s : Mr.Dhirendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 22-03-2024

I.A. No. 02 of 2024

The instant interlocutory application has been filed for
substitution of petitioner.

2. Learned counsel for the petitioner submits that the petitioner has died on 28.09.2019 leaving behind his legal heirs whose details have been mentioned in paragraph 4 of the interlocutory application. Learned counsel further submits that he was not having informant about the death of petitioner and for this reason this fact of death of petitioner could not be brought to the notice of the Court earlier. Learned counsel further submits that the wife of the petitioner is an illiterate lady



and the sons and daughter used to live outside the village for earning their livelihood and for this reason they did not bring to the notice of the learned counsel about the death of the petitioner.

3. Having regard to the averments made in the interlocutory application and submission made on behalf of the petitioner, I.A. No. 02 of 2024 stands allowed.

4. Office is directed to expunge the name of petitioner and substitute the same with his legal heirs/representatives whose details have been mentioned in paragraph 4 of the interlocutory application.

C. Misc. No. 1624 of 2017

5. At this stage, learned counsel for the respondents submits that the present Civil Misc. Petition was filed making respondent no. 3 as party when he was already dead as he died on 01.01.2017 whereas the impugned order was passed on 06.07.2017 and the present Civil Misc. was filed on 30.08.2017. Learned counsel further submits that the present petition has been filed against a dead person and the same is not maintainable.

6. Faced with this situation, learned counsel for the petitioner seeks permission to withdraw the present petition to



pursue the remedy before the learned Sub-ordinate Court.

7. Permission is accorded.

8. Accordingly, the present petition is dismissed with the liberty aforesaid.

9. Interlocutory applications stand disposed of.

(Arun Kumar Jha, J)

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