

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 9 of 2007

West Bokaro Colliery (TISCO)	...	...	Appellant
Versus			
01. Banka Manjhi			
02. Kashi Nath Manjhi			
03. Bhuneshwar Manjhi			
04. Nandu Manjhi			
05. Gaya Manjhi			
06. Basia Manjhi			
07. Tudu Manjhi			
08. Talo Manjhi			
09. Sanjhala Manjhi			
10. Manjkhala Manjhi			
11. The State of Jharkhand through the			
Deputy Commissioner, Hazaribagh	...	...	Respondents

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Appellant	: Mr. Pratyush Kumar, Advocate
For the State	: Mr. Nawal Kishore Pandey,
	A.C. to S.C. (Land & Ceiling)

Order No. 29 / Dated: 11th July, 2023

I.A. No. 2800 of 2023, I.A. No. 2801 of 2023 and I.A. No. 6846 of 2013

Heard learned counsel Mr. Pratyush Kumar appearing on behalf of the appellant and the learned counsel Mr. Nawal Kishore Pandey, A.C. to S.C. (Land and Ceiling) appearing on behalf of the State of Jharkhand-respondent No. 11.

2. Learned counsel appearing on behalf of the appellant has submitted that the aforesaid Interlocutory Applications have been filed with a prayer to allow the substitution application by setting aside the abatement to substitute the names of the legal heirs and legal representatives of the deceased respondent No.1, 5 and 6.

3. It is submitted on behalf of the appellant that respondent No. 1, Banka Manjhi, respondent No. 5, Gaiwa Manjhi @ Gaya Manjhi and respondent No. 6, Basia Manjhi @ Sadhu Manjhi, have died and their legal representatives as mentioned in the second supplementary affidavit dated 07.09.2018 be allowed to be substituted after setting aside the abatement with respect to the heirs and legal representatives of the deceased respondent Nos. 1, 5 & 6.

4. Learned counsel appearing on behalf of the appellant has submitted that a detailed genealogical table has been given with respect to the heirs and legal representatives of the deceased respondent Nos. 1, 5 & 6 on the basis of the voter list provided by the office of the Election Commission, Ramgarh on 12.09.2017, which is Annexure-A and Annexure-A/1 of the second supplementary affidavit of the Interlocutory Application No. 6846 of 2013.

5. Learned counsel appearing on behalf of the State of Jharkhand did not raise any objection submitting that let them be substituted and fresh notices be issued for hearing of the appeal.

6. Having taken into consideration the aforesaid submission and after going through the contents of the aforesaid Interlocutory Applications i.e. I.A. No. 2800 of 2023, I.A. No. 2801 of 2023 alongwith the comprehensive supplementary affidavit filed in I.A. No. 6846 of 2013 on 10.09.2018, the prayer of the appellant for substituting the legal heirs and representatives of deceased respondent No. 1, 5 & 6, is hereby allowed after setting aside the abatement for the just decision of this case.

7. Learned counsel appearing on behalf of the appellant is directed to do the needful in this regard by incorporating the name of the legal heirs and representatives of the deceased respondent Nos. 1, 5 & 6 at the appropriate place in this appeal.

8. Further, the learned counsel appearing on behalf of the appellant is directed to take steps for issuance of fresh notices to the substituted legal heirs / representatives for hearing in this appeal.

9. I.A. No. 2800 of 2023, I.A. No. 2801 of 2023 and I.A. No. 6846 of 2013 are allowed, accordingly.

I.A. No. 6847 of 2013

9. It is further submitted that Interlocutory Application being I.A. No. 6847 of 2013 has been filed on behalf of the appellant with a prayer to substitute the names of the legal heirs and representatives of deceased respondent No. 4, Nandu Manjhi, @ Nanhu Manjhi, who died on 03.05.2003 leaving behind following heirs and legal representatives.

a) Sanjala Manjhi

b) Ruplal Manjhi both sons of late Nandu @ Nanhu Manjhi and

c) Chitmuni Devi w/o late Sonaram Manjhi,

all residents of village Pundi, P.O. Hesagara, District- Hazaribagh.

10. It is further stated that it is a mandatory and statutory duty of the applicants-respondent No. 1 to 7 to have get the names of legal heirs and representatives duly substituted in place of the deceased respondent No. 4 namely Nandu @ Nanhu Manjhi son of late Dewan Manjhi but since the appellants-respondent Nos. 1 to 7 including the deceased respondent No. 4, Nandu @ Nanhu Manjhi had inseverable and indivisible right, title and interest over the lands acquired under the provisions of Land Acquisition Act, 1894 and thus the impugned judgment dated 18.12.2006 and the award dated 08.01.2007 passed by Sub- Judge-II-cum- Special Judge, Land Acquisition, Hazaribagh, in reference made under Section 18 of the Land Acquisition Act, 1894 is rendered nullity since the impugned judgment and award has been passed in the name of a dead person.

11. In view of the aforesaid submission the learned counsel appearing on behalf of the State of Jharkhand did not raise any objection submitting that let them be substituted and fresh notices be issued for hearing of the appeal.

12. In view of the submission advanced on behalf of the appellant and for the reasons assigned in the said application, the prayer of the legal heirs and representatives of the deceased respondent No. 4, is hereby allowed to be substituted as mentioned in I.A. No. 6847 of 2013 after setting aside the abatement for the just decision of this case.

13. Learned counsel appearing on behalf of the appellant is directed to do the needful in this regard by incorporating the name of the legal heirs and representatives of the deceased respondent No. 4 at the appropriate place in this appeal.

14. Further, the learned counsel appearing on behalf of the appellant is directed to take steps for issuance of fresh notices to the substituted legal heirs / representatives for hearing in this appeal.

15. I.A. No. 6847 of 2013 is allowed, accordingly.

I.A. No. 2832 of 2023,

16. Learned counsel appearing on behalf of the appellant has submitted that I.A. No. 2832 of 2023 has been filed with a prayer to condone the delay of 1319 days in filing the substitution petition to substitute the name of the heirs and legal representatives of the deceased respondent No. 6(v) namely, Sahdeo Hembrome s/o Late Sawna Manjhi, who died on 08.03.2019 leaving behind his legal heir and representative detailed in para-7 of the instant Interlocutory Application.

17. Learned counsel appearing on behalf of the State of Jharkhand did not raise any objection submitting that let her be substituted and fresh notices be issued for hearing of the appeal.

18. In view of the submission advanced by the learned counsel for the appellant the delay of 1319 days in filing the substitution petition is hereby condoned.

19. Learned counsel appearing on behalf of the appellant is directed to take the appropriate steps for incorporating the name of the legal heirs and representatives of the deceased–respondent No. 6(v) at the appropriate place in this appeal as detailed in para-7 of the instant Interlocutory Application

20. Further, the learned counsel appearing on behalf of the appellant is directed to take steps for issuance of fresh notices to the substituted legal heirs / representatives for hearing in this appeal.

21. Accordingly the aforesaid Interlocutory Application being I.A. No. 2832 of 2023, is allowed.

21. Let this case be posted on 18.08.2023.

D.S./J.Minj

(Navneet Kumar, J.)