

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14579 of 2015

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Ram Krishna Thakur

.... Petitioner/s

Versus

Om Prakash Thakur & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 10-12-2015

Heard the learned counsel, Mr. Akhileshwar Kumar Shrivastava for the petitioner.

By the impugned order dated 03.07.2015, passed by Sub Judge III, West Champaran in final decree proceeding i.e. F.D. No.5 of 2012, added the respondent Nos.5 and 6, who are the daughters of Daroga Thakur, as party-defendant.

The only grievance of the petitioner is that in the preliminary decree, it has been held that the daughters are entitled to a share of their father, Daroga Thakur. The brother of the respondent Nos.5 and 6 are already there and, therefore, in fact they are not necessary party but proper party.

It may be mentioned here that after amendment of the Hindu Succession Act in the year 2005, the daughters have been held to be the coparceners of the joint family property. The point raised by the learned counsel for the petitioner is covered by the

decision of the Supreme Court in the case of **Ganduri Koteshwaramma & Anr. v. Chakiri Yanadi & Anr., AIR 2012 Supreme Court 169**. It appears that in the case before the Supreme Court also, two daughters filed application for being added as party. The Hon'ble Supreme Court held that the right accrued to a daughter in the property of a joint Hindu family governed by Mitakshara law by virtue of the 2005 Amendment, law is absolute except in the circumstances provided in the proviso appended to Sub Section 1 of Section 6.

Admittedly, in the present case, the petitioner is daughter of Daroga Thakur. Admittedly, Daroga Thakur has share in the property. Now, therefore, since they have got absolute right as has been held by the Supreme Court in the aforesaid case, they are entitled to be added as party as held by the court below.

In view of the above facts and circumstances and the settled principles of law, the impugned order cannot be interfered with in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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