

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.442 of 2013

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1. Munna Mochi s/o Late Ram Khelawan Mochi Resident Of Village-
Kaswa, P.S- Kinjar, District- Arwal.

.... Appellant/s

Versus

1. The Union Of India Through The General Manager, East Central
Railway, Hajipur (Bihar)

.... Respondent/s

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Appearance :

For the Appellant/s : M/s. A.N.Mishra & Anand Kumar-I, Adv.

For the Respondent/s : Mr. Sunil Kumar Ravi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

10 05-10-2015

Heard counsel for the appellant and the respondents.

In the present case, claim case was filed by Smt. Mahapati Devi wife of Late Ram Khelawan Rai who died on account of untoward accident. Mahapati Devi died on 6th July 2010 but she was not substituted by her heir and successors within the time prescribed. The application for substitution was filed after 2 ½ years which was rejected by the trial court against which the present appeal has been preferred.

Counsel for the appellant submits that on account of death of appellant's mother they were feeling perturbed, as such no substitution petition could be filed in time.

Counsel for the respondent has submitted that appellant was required to take steps within 90 days but after expiry

of much time application has been filed without giving valid and proper explanation and the court below has rightly refused to entertain such application.

Having considered the rival contention of the parties, this Court is of the view that it is not in dispute that Mahapati Devi was widow of Ram Khelawan Rai, substitution petition has been rejected only on the ground that proper action was not taken within the prescribed time of 90 days.

This Court feels that the reason that has been assigned by the appellant cannot be said to be not valid and reasonable for the purpose of substitution.

In such view of the matter the order impugned is set aside. Let the dependent/legal heirs and successors be added as party and the court below will decide the case on its own merit and will consider the question of dependency in accordance with law.

Accordingly, this appeal is allowed.

Office is directed to return the lower court records immediately.

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(Shivaji Pandey, J)