

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15812 of 2015

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Pulkit Sahu

.... Petitioner/s

Versus

Ram Lochan Sahu & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanat Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 08-12-2015

Heard the learned senior counsel Mr. Anil Kumar Jha, on
the interlocutory application No. 8431 of 2015.

At the time of hearing of the interlocutory application, the
learned senior counsel submitted that the writ application itself
may be heard on merit. Accordingly, I heard him on merit.

The Court below by the impugned order dated
21.08.2015 passed by Addl. District Judge-V, Madhubani in
Probate Case No.1 of 2011 rejected the intervention application
filed by the petitioner.

According to the learned senior counsel, the petitioner's
land which is subject matter of Title Suit No. 58 of 2010 which he
has already purchased by registered sale deed dated 22.01.1973
and others sale deed is covered in Will. The learned senior
counsel further submitted that petitioner is the own nephew of the
testator, but the Court below rejected wrongly the application on

the ground that no proof or documents has been filed by the petitioner to show that the property in Title Suit No. 58 of 2010 is the same with the land bequeath in the Will.

Perused the order passed by the Court below. The Court below has rejected the application only on the ground that the petitioner did not file any paper/document regarding Title Suit No. 58 of 2010 which shows that the land in question is in this probate case and land in question in Title Suit is same or not.

In view of the above observation of the Court below, in the impugned order the same cannot be interfered with in supervisory jurisdiction. However, the petitioner, if so advised, may file another application before the Court below giving the details and the documentary proof, if he has cavatable interest and if such application is filed, the Court below shall decide the same on merit without being influenced by this rejection as the impugned order has been passed on technical ground without giving opportunity to the petitioner to produce the proof or document.

Thus, this writ application is dismissed with the aforesaid liberty.

Sanjeev/-

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(Mungeshwar Sahoo, J)