

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1791 of 2014

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Prahlad Upadhyay @ Palo Upadhyay & Anr

.... Petitioner/s

Versus

Brahmdeo Chaudhary & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dev Kumar Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 17-12-2015

Heard the learned counsel for the petitioners.

The defendants-petitioners have challenged the order dated 23.09.2013 passed by J.M.1st-cum-Additional Munsif VIII, Biharsharif, Nalanda in Title Suit No.40 of 2004 whereby the Court below allowed the substitution application filed by the plaintiffs-respondents for substitution of defendant No.1.

The only grievance of the petitioners is that while passing the order, the Court below committed error of record by observing that Sita Devi and her daughter have been substituted in another title suit being Title Suit No.63 of 1989 whereas in fact, the petitioners have challenged the said order of substitution in CWJC No.13565 of 2013 wherein notices have been issued and proceeding has been stayed.

The Hon'ble Supreme Court in the case of **Jai Singh and Others v. Municipal Corporation of Delhi and Another,**

(2010) 9 Supreme Court Cases 385 has held that “the jurisdiction under Article 227 cannot be exercised like a “bull in a china shop” to correct all errors of judgment of a court, or tribunal, acting within the limits of its jurisdiction. This correctional jurisdiction can be exercised in cases where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice.”

In this present case, the defendant No.1 died and in his place, on the application filed by the plaintiff, the widow and daughter has been substituted. The other two defendants are making grievance against this substitution application on the ground that they are not the daughter and widow of the deceased defendant No.1. Since the order has been passed for substitution only, there is no question of any grave injustice or prejudice to the petitioner arises and accordingly, in supervisory jurisdiction, the impugned order cannot be interfered with.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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