

IN THE HIGH COURT OF JUDICATURE AT PATNA

Test Case No.2 of 2014

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1. Pushpa Sinha W/O Late Krishna Kishore Sinha Resident of 9 Patliputra Colony, P.S- Patliputra, Town And District- Patna, At Present Residing At Flat No. 93 Tower- H, DLF Park Place, Dlf City, Phase- 5, Sector- Gy, Gurgon- 122002

2. Smt. Seema Dayakriti @ Smt. Seema Prasad Daughter Of Late Krishna Kishore Sinha And W/O Of Major Pushkar Prasad (Now Retired Colonel) Resident Of 9, Patliputra Colony, P.S- Patliputra, District- Patna, Presently Reside At Flat No. 93 Tower- H, DLF Park Place, DLF City Phase- 5, Sector Gurgaon 122002

(both are class-1 heirs of late Krishna Kishore Sinha objector/caviator of Test Case No.3 of 1997 and Test Suit No.6 of 1997 (defendant no.1 of connected)

(Class-1 heirs of defendant namely late Krishna Kishore Sinha)

.... Petitioner/s

Versus

1. Sri Vivek Sinha

2. Sri Abhishek Sinha both sons and legal heirs of Late Bimal Sinha Resident of 9 Patliputra Colony, P.S- Patliputra, District- Patna.

3. Smt. Vinita Sinha D/O Late Bimal Sinha 9, Patliputra Colony, P.S.- Patliputra, Dist.- Patna

4. Smt. Vinita Sinha D/O Late Bimal Sinha 9, Patliputra Colony, P.S.- Patliputra, Dist.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh, Advocate

For the Respondent/s : Mr. Laxmi Narayan Das, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 15-01-2015

Heard Mr. Dudh Nath Singh, learned counsel for the petitioner and Mr. Laxmi Narayan Das for the respondents.

2. This is an application seeking revocation of grant of letters of administration of the will dated 12th September 1973 vide order dated 15th January 2003 in Test Suit No. 6 of 1997 by a Bench of this Court.

3. The revocation is sought on the ground that the



previous application proceeded at the instance of opposite parties suppressing the materials and ancestor of the plaintiffs present here late Krishna Kishore Sinha died on 09.12.2010 (at annexure 2 of the appeal) was the person entitled for the shares but everything was suppressed and by filing, annexure-3 series, some ordersheets of the original case, an attempt is made to show that the matter was pending for the stage of citation but suddenly in a dramatic way hearing commenced and disposed of.

4. During hearing records of Test Suit No. 06 of 1997 is also examined. Late Kishore Krishna Sinha, the solitary near relative of the testator appeared on 26.09.1997 by filing power engaging Mr. Brajesh Nandan Bariar as counsel and also filed caveat on 17.10.1997 but some time thereafter, left contesting proceeding permitted to proceed ex parte, as if, there is no objection from any corner.

5. In the entire pleading, herein in the instant case, the pleading is conspicuously silent about appearance of late Krishna Kishore Sinha and filing of caveat by him and the reasons to explain how and why it is decided not contested. This is undisputed that late Krishna Kishore Sinha was alive roughly 13 years after appearance in the previous proceeding and 7 years after its final conclusion but did nothing.

6. In absence of anything specifically pleading, as indicated above, and finding the pleadings not only contrary to the materials available and the way earlier Test Suit No. 06 of 1997 proceeded, it appears that the present plaintiffs have not been coming with clean hands rather they themselves come with suppressing the material facts though alleging the same against the defendants here.

7. There appears no reason to proceed further for any otherwise enquiry etc.. Hence, finding no merit, this case is, hereby, dismissed on contest. However, under the circumstances, there is no order as to cost.

(Akhilesh Chandra, J)

Ashwini/-

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