

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18570 of 2014

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Annu Devi, wife of Manoj Pandit and Daughter of Ganesh Pandit, Resident
of Village- Maner, P.O. + P.S.- Maner, District- Patna.

.... Petitioner/s

Versus

Ramkali Devi, wife of Sri Ram Chandra Pandit, Resident of village- Chhoti
Pahari, P.S.- Agamkuan, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vibhuti Ranjan Sonvadra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 08-10-2015

Heard the learned counsel for the petitioner.

Grieved by the impugned order whereby the learned
court below has turned down the prayer for impleading the
petitioner as a party in the title suit (arising out of the probate
case), the petitioner has filed this application under Article 227 of
the Constitution of India for quashing the said order.

The learned counsel for the petitioner has submitted
that the plaintiff has filed the probate case impleading the father of
the petitioner as opposite party. After contest, the said probate
case has been converted into a title suit. It has further submitted
that the father of the petitioner appeared in the probate case as
caveator objecting the claim of the plaintiff. It has also been
pointed out by the learned counsel that the father of the present

petitioner was the sole defendant in the said suit and after his demise, on the prayer of the plaintiff, his name was expunged on the ground that he died issueless. It has been further submitted that when the present petitioner came to know about the aforesaid fact she filed the petition for her addition as party defendant in the said suit on the ground that she was the daughter of the deceased defendant. It has been submitted that the learned court below has wrongly rejected the said petition.

After considering the facts and circumstances of the case as well as submissions on behalf of the petitioner, it is manifest that the father of the petitioner was the sole defendant in the title suit (arising out of the probate case) and after his death the plaintiff has got his name expunged from the records of the said title suit stating that he had died issueless. From the impugned order, it does not transpires that the learned court below has recorded any finding that the present petitioner is not the daughter of the deceased defendant Ganesh Pandit although the status of the petitioner as daughter of the deceased defendant Ganesh Pandit was challenged by the plaintiff. In that view of the matter, it is manifest that the petitioner's right in the property of her father Ganesh Pandit could not be prejudiced by any order passed in the said title suit (arising out of the probate case).

This writ application is, accordingly, dismissed with liberty to the petitioner to pursue the remedy available to her in accordance with law for protection of her right, title and interest in her property.

(V. Nath, J)

Devendra/-

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