

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.123 of 2013

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1. Chandeshwari Devi W/O Sarda Prasad Resident Of Village Pakari, P.S- Bihta,
District- Patna.

.... Appellant/s

Versus

1. Santosh Kumar S/O Late Chandrika Prasad Singh Resident Of Village Pakari,
P.S- Bihta, District- Patna.
2. Dhanupari Devi W/O Late Ram Bahadur Singh Resident Of Village Pakari, P.S-
Bihta, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nachiketa Jha, Advocate.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-08-2015

Heard learned counsel for the appellant.

In the present appeal the appellant is challenging the order dated 26.11.2012 passed by the Additional District Judge, 14th, Patna in Probate Case No.46 of 2009 by which the court below has refused to grant probate/letter of administration in favour of the appellant.

As per the fact emerging from the record it appears that Chandeshwari Devi was granddaughter-in-law of late Padarath Gope. Padarath Gope was blessed with great grandson and great grand daughter-in-law. As per the claim that Bharat Gope who died issueless executed the Will on 1.7.1948 and died on 29.9.1952 but this probate case has been filed in the year 2009

i.e. after 56 years and the court below has rightly recorded that probate case has been filed after a great delay without any explanation which creates grave doubt about the genuineness of the Will itself. In a situation when neither scribe nor attesting witness were examined.

Learned counsel for the appellant submits that both of them have died and as such they could not be examined. The delay in filing the appeal itself indicates appellant allowed them to die and thereafter this probate case has been filed. Though there is no limitation but principle of laches will principally apply. This Court feels that the court below has not committed any error in passing the order.

Accordingly this appeal is dismissed.

(Shivaji Pandey, J)

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