

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4529 of 2014

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Hirmatiya Kunwar

.... Petitioner/s

Versus

Nawal Kishore Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 20-01-2016

Heard the learned counsel for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 28.01.2014 passed by Sub Judge-V, Siwan in Title Suit No.101 of 1990.

It appears that the aforesaid suit was filed by the plaintiff respondent. In the said suit, the father-in-law of the present petitioner was defendant. On his death, the husband of this petitioner was substituted as defendant No.2. The defendant No.2 had already filed written statement and after evidences, both the parties have concluded even their argument prior to 2013. The husband of this petitioner died and then the petitioner was substituted in place of her husband. The petitioner filed application for permission to file written statement and to

contesting the suit. By the impugned order, the Court below has rejected the same.

Perused the order passed by the Court below. It appears that considering the fact that the husband of the petitioner had already filed contesting written statement and arguments have already been advanced and at this stage, the petitioner after substitution cannot be allowed to file written statement and cannot be allowed to contest the suit as she has been substituted in place of her husband.

In view of the settled proposition of law that the legal representatives who are substituted cannot file written statement contrary to the written statement filed by the original defendant in place of whom they have been substituted, there is no illegality committed by the Court below nor it can be said that there is any jurisdictional error, therefore, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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