

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.118 of 2012

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1. Shanti Devi W/O Tetar Rai.
 2. Ramji Rai S/O Tetar Rai both Resident of Village- Phulia Tola, P.S- Phulwari, District- Patna.

.... Petitioner/s

Versus

1. Ramesh Rai.
2. Ashok Rai.
3. Shankar Rai all S/O Tetar Rai.
4. Devam Rai S/O Late Lok Nath Rai all Resident of Phulia Tola, P.S- Phulwari, District- Patna.
5. Dhanpati Devi W/O Late Anup Rai Resident of Village Gothwa, P.S and District- Bhojpur.
6. Krishna Rai S/O Bhuwan Rai Resident Of Phulia Tola, P.S- Phulwari, District- Patna.
7. Sharma Nand Singh S/O Late Tipan Bhagat.
8. Bijohnandan Singh S/O Sharmanand Singh.
9. Sarswati Devi W/O Dinesh Singh.
10. Ajoy Singh S/O Sharmanand Singh.
11. Basanti Devi wife of late Sanjoy Singh.
12. Guddu.
13. Sonu both S/O Late Dinesh Singh.
14. Ravi Kumar.
15. Kiran Devi wife of late Dipak Kumar.
16. Bhushan Kumar.
17. Sudhir Kumar.
18. Sumir Kumar all sons of Bidyanand Singh all resident of Village- Phulia Tola, P.S- Phulwari, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Indu Bhushan Prasad, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

15 30-01-2016

Heard the learned counsel for the parties.

The present revision application has been filed against the order passed by the appellate court below allowing the prayer for substitution made by the appellants.

The suit was decreed and thereafter the defendants filed the appeal. During the pendency of the appeal one of the plaintiff-respondent namely Tetar Rai died. It is not in dispute that his four sons are already on record as respondents in the appeal and they were co-plaintiffs with him in the suit. The petition was filed on behalf of the appellants to expunge the name of the deceased respondent no. 1 Tetar Rai and to substitute in his place his widow Shanti Devi in order to avoid complication as the other heirs were already on record in the appeal. The prayer in the petition was also made for substitution of the heirs of some of the deceased appellants as well with which the present petitioners have admittedly no concern. The petitioners at present are the widow of the deceased respondent no. 1 Tetar Rai and one of his sons (already party in the appeal) and have come before the court with assertion that as no prayer for their substitution was made within the prescribed period of limitation even after getting the knowledge of the date of death of the respondent no. 1, the appeal

has abated. The learned court below after taking into notice of the fact that some of the heirs of the deceased respondent no. 1 are already on record and also after having been satisfied with the explanation furnished by the appellants has allowed the prayer for substitution.

This court has not been persuaded to find any error of jurisdiction or irregularity in the impugned order in view of the admitted fact that some of the heirs of the deceased respondent no. 1 are already on record in the appeal.

In that view of the matter, this revision application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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