

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4695 of 2013

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1. Shivendra Prasad Sinha S/O Late Janardan Prasad Kashyap Resident Of Mohalla Ratanpura (North Of Jail), Ahirtoli, Hafeez Path, Town Chapra, P.O. 7 P.S. Bhagwan Bazar, District Saran.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Law And Justice, Secretariat, Patna.

2. Smt. Chandrawati Devi W/O Late Janardan Prasad Kashyap And D/O Late Raghubeer Prasad Resident Of Mohalla Ratanpura (North Of Jail), Ahirtoli, Hafeez Path, Town Chapra, P.O. 7 P.S. Bhagwan Bazar, District Saran.

3. Nageshwar Prasad Sinha S/O Late Janardan Pd. Kashyap Resident Of Mohalla Ratanpura (North Of Jail), Ahirtoli, Hafeez Path, Town Chapra, P.O. 7 P.S. Bhagwan Bazar, District Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Rai, Advocate

For the Respondent/s : Mr. Radhika Raman, GP-23.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 04-03-2016

Heard learned counsel for the petitioner.

2. Respondents No.2 and 3, as has been disclosed by the petitioner, also happen to be applicants before the learned lower court along with petitioner for grant of Probate/Letter of Administration relating to a 'Will' dated 29.03.1982 executed by Raghuveer Prasad to his wife, Tara Devi and one of his daughters, Chandrawati Devi and so, no notice is required to be served upon them.

3. On account of the requirement whereunder the applicant is to correctly value the estate going to be occupied by them on the basis of 'Will' so executed in their favour by the executor, Chapter-3A of the Court Fee Act commands the situation and in terms of 19(h), the notice is to be served upon the

Collector of the District who is expected to report over valuation which, having an option at the end of petitioner to challenge, and if so challenged, the Court is required to adjudicate upon in terms of Section 19(h) (5) of the Court Fee Act and then, will decide the quantum of Court Fee to be realized from the applicant. From the order impugned, it is evident that the aforesaid exercise was taken up by the learned lower court.

4. Learned counsel for the petitioner referred the case of *Laxmi Prasad v. Badri Ram* reported in *AIR 1985 Patna 119 (DB)* whereunder at paragraph-6A, it has been incorporated and held that the valuation is to be fixed on the date on which petition was filed. As is evident, petition was filed in the year 1988. The report of the Collector happens to be of the year 1992 but the order impugned did not disclose specifically that it relates to or has been ascertained or adjudicated upon receding back to year 1988.

5. Consequent thereupon, the order impugned is set aside. Petition is allowed.

6. The matter is remitted back to the learned lower court to adjudicate upon the issue in terms of principle laid down by this Court at an earlier occasion as referred above.

(Aditya Kumar Trivedi, J)

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