

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.185 of 2015
IN
LPA 1636 of 2012

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Mrs. Tehmina Imam @ Tehmina Imam Punvani, daughter of Late Syed Akbar Imam, resident of B-1, 3rd floor, Geetanjali Enclave, New Delhi, through her Attorney Gautam Kumar Singh, son of Shital Prasad Roy, resident of Chalital N M C H Road, Gulzarbagh, P.S. Alamganj, District Patna.

.... Petitioner

Versus

1. Bahar Murtaza Ali, mother of Late Faiz Murtaza Ali.

2. Shahnaz Ali, wife of Late Faiz Murtaza Ali.

Both resident of 112, Ground floor, Uday Park, New Delhi 110049.

3. Shehar Ali daughter of Late Faiz Murtaza Ali and wife of Bhisham Saini, resident of 48, Uday Park, New Delhi 110049.

4. The State of Bihar.

5. The District Magistrate, Patna.

6. The Syed Askari Hadi Ali Augustine Imam, son of Late Syed Hassan Imam, resident of Kheliyan village Kesura, P.S. Hazaribagh Muffasil, District Hazaribagh, (Jharkhand).

7. Dr. Shahida Hassan wife of Mr. Azfar Hassan, Advocate Chamber No. 25, Bar Council Bhawan, Patna.

8. The Muzaffarpur Properties Pvt. Ltd. through its Managing Director, Shri Amar Nath Pandey, son of Late Raghunath Pandey, resident of Mohalla - Muzaffarpur Town, P.S. Muzaffarpur (Town) District Muzaffarpur

9. Bihar Shia Wakf Board through its Chief Executive Officer, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Jha, Advocate
For the Respondent/s : Mr. Dhurjati Kr. Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 19-08-2016

This Review Application has been filed for review of final order dated 24.04.2015 passed in Letters Patent Appeal No. 1636/2012. By the said order, the Division Bench dismissed the Letters Patent Appeal holding the same as misconceived as borne from the records.

We may note that the appellant in the Intra-Court Appeal was the respondent no. 4 in the writ petition and also in the Letters Patent Appeal. The writ petition was filed challenging a final decree passed by the Civil court dated 22.05.2003 being the decree passed by the Sub-Judge-VII, Patna in Title Suit No. 58/2003.

In the Letters Patent Appeal, it was clearly held that the writ petition against decree of Civil Court in a Title Suit was not maintainable. The writ petition being dismissed and on the same ground Letters Patent Appeal was dismissed.

The Review petitioner was respondent no. 4 in



the writ petition and respondent no. 4 in the Letters Patent Appeal. It appears, during pendency of the Letters Patent Appeal, the original appellant, Faiz Murtaza Ali died on 20.06.2013, and an application for substitution being I.A. No. 6479/2013 was filed by mother, wife and daughter which was allowed by order dated 11.02.2015. Accordingly, Faiz Murtaza Ali, the sole appellant was substituted by his legal heirs and representatives, two years later.

It appears another Interlocutory Application being I.A. No. 5743/2013 was filed by respondent no. 4 for being transposed to the position of appellant and be substituted in place of Faiz Murtaza Ali, on the ground that she was a litigatee in a Will dated 14.04.2013 allegedly executed by Faiz Murtaza Ali, which Will is neither registered nor probated as yet. Once, I.A. No. 6479/2013 was allowed and Faiz Murtaza Ali was substituted by his mother, wife and daughters, automatically I.A. No. 5743/2013 filed by respondent no. 4 for transposing and substitution in view of the Will became redundant, as the estate was duly represented.

It may be noted that the Court noted that I.A. No. 5743/2013 would be considered at the time of

admission. When Letters Patent Appeal was finally taken up for disposal, all the parties were heard and no objection was at all taken in course of hearing for substitution as original appellant, Faiz Murtaza Ali, had already been substituted. As noted earlier, this Court dismissed the Letters Patent Appeal as misconceived and not maintainable, with a liberty to the appellant to raise the dispute before the appropriate Court.

In such circumstances, we do not think that this Review Application is required to be entertained and that too by a party who was not the appellant or the writ petitioner.

This Review Application is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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