

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1540 of 2016

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Rayees Ahmad

.... Appellant/s

Versus

Faisal Ahmad & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Satish Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 23-12-2016

Heard leaned counsel for the petitioner.

Perused the impugned order dated 09.05.2016 passed by the learned Sub Judge, 1st, Kishanganj in Title Suit No. 50 of 2013, whereby the learned Sub Judge has substituted the respondent no. 1 in place of the sole plaintiff.

From perusal of the order, it appears that the sole plaintiff died and then the respondent no. 1 filed application for being substituted in her place on the ground that the sole deceased-plaintiff Gohri Begam has orally gifted her property to the present petitioner, as such, she has no interest in the property and the respondent no. 1 be substituted. The present petitioner objected the substitution on the ground that he is the son of the contesting defendant and that the gift is oral gift and that Gohri Begam has two daughters, who had not applied for being substituted and therefore, the suit had already abated.



So far the objection raised by the petitioner regarding the substitution is concerned, it may be mentioned here that Order 22 Rule 4 provides for substitution of the legal representative and not the heirs of the plaintiff. When the respondent no. 1 is claiming title on the basis of gift by the sole plaintiff, the respondent no. 1 is a legal representative. Moreover, even after substitution in place of the sole plaintiff automatically, title will not vest on him because his title is being disputed by the defendant-petitioner. This question as to whether he acquired title or not that may be decided ultimately on the basis of material that may be brought by the parties, but for substitution these matters are not required to be decided at this stage.

Thus, I find no reason to interfere with the order in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this Civil Miscellaneous Application is dismissed.

(Mungeshwar Sahoo, J)

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