

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12816 of 2013

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1. Sita Dasi, Cheli Of Late Mahanth Ram Kishore Das Chauhatta Thakuribari,
Darbhanga Palace Road, P.S. - Pirbahore, District - Patna

.... Petitioner/s

Versus

1. Mostt. Manorma Devi Wife Of Late Kali Prasad Resident Of Mohalla -
Chauhatta, Darbhanga Palace Road, P.S. Pirbahore, District - Patna

2. Kedar Nath Son Of Late Madho Ram Resident Of Mohalla - Chauhatta,
Darbhanga Palace Road, P.S. Pirbahore, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar No. 1, Adv

For the Respondent/s : Mr. Poddar Suresh Gandhi, Adv

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-11-2016

Heard learned counsel for the parties.

By the impugned order the learned court below has rejected the prayer made by the petitioner for her substitution in place of the deceased appellant on the basis of a registered will said to have been executed by the said deceased appellant in favour of the petitioner.

From the perusal of the impugned order, it transpires that the court below has failed to consider the well settled principles of law in this regard before coming to the



conclusion that the petitioner cannot be substituted in place of the deceased-appellant as the will is unprobated. However, in view of the law laid down by a bench of this Court in the case of **Suresh Singh and others Vs. Dr. Raja Ram Singh and another** 1992(2) PLJR 129 the conclusion drawn by the court below in the impugned order does not appear to be in accordance with law.

Accordingly, this application is allowed and the impugned order is set aside and the matter is remitted back to the court below for consideration afresh of the petition dated 15.04.2011 filed by the petitioner.

(V. Nath, J)

Ranjan/-

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