

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11859 of 2014

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Kamla Kant Sah, Son of Late Jageshwar Sah, resident of village Meenapur, Nagar Parishad, P.O. & P.S. Hajipur Ward No. 26, District - Vaishali

.... Petitioners

Versus

1. The State of Bihar through the Collector, Vaishali
2. Anand Kumar alleged to be son of Late Kamleshwar Sah, resident of Meenapur, P.S. Hajipur, District - Vaishali, at present resident of Bagmali, P.S. Nagar Hajipur, District - Vaishali

.... Respondent 1st Party

3. Fakira Sah, Son of Late Kalpu Sah, resident of village - Bisunpur Basant, P.S. Hajipur, District - Vaishali

.... Respondent 2nd Party

.... Respondents

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Appearance :

For the Petitioner : Mr. Prahalad Kumar Bhagat, Advocate

For the Respondents : Mr. Nivedita Nirvikar, G.A.-X

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-08-2016

Heard learned counsel for the petitioner.

By the impugned order the learned court below has allowed the prayer of the respondent no. 2 for his impleadment as party in Miscellaneous Case No. 29 of 1986 which has been filed under the provisions of Arbitration Act, 1940 for making the award the rule of the Court.

It is not in dispute that the brother of the present petitioner was one of the parties in that miscellaneous case, but subsequently after his death his name was expunged on the prayer of the petitioner. Later on, however, the respondent no. 2 filed a petition claiming himself to be the son of the said deceased party. By the

impugned order the learned court below has allowed the prayer for impleading him as party in the proceeding.

Learned counsel for the petitioner has submitted that the respondent no. 2 is totally stranger to the family of the petitioner and, therefore, the impugned order impleading him as party in the proceeding is illegal.

After considering the submissions and perusal of the impugned order, it appears that the learned court below has observed in the impugned order as to whether the respondent no. 2 was the son of the deceased Kamleshwar Sah or not is a question to be determined. As such, it is evident that the said question has not been finally determined and is still to be determined on the basis of the materials on record and evidence to be led.

In this background, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The petition is, accordingly, dismissed.

(V. Nath, J.)

Kundan

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Transmission Date	