

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5980 of 2014

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Motisari Devi @ Motshwari Devi & Ors

.... Petitioner/s

Versus

Hari Sagar Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 09-02-2016

Heard the learned counsel, Mr. Ramchandra Singh for the petitioners.

The Court below by the order dated 01.10.2013 allowed the intervention application in Title Suit No.94 of 2003.

The learned counsel, Mr. Ramchandra Singh submitted that the intervener is in fact son of Hari Sagar Yadav, defendant No.4, therefore, he was not made party because his father was there but the intervention application was filed by him claiming that he is the son of Sri Kishun Yadav. According to the learned counsel, in fact, he is not the son of Sri Kishun Yadav as Sri Kishun Yadav died leaving behind only one daughter who is admitting the fact that she has no brother.

Perused the order passed by the Court below. The Court below observed that in view of the controversy raised by the intervener and the plaintiff that whether the intervener is son of Sri

Kishun Yadav or Hari Sagar Yadav can be decided at the hearing of the suit and, therefore, he is necessary party in the suit. It is admitted by the learned counsel for the petitioner that if he is able to prove that he is the son of Sri Kishun Yadav then naturally he will be entitled to a share in the property. Now, therefore, this will be one of the controversies between the plaintiff and the intervener as well as other defendants. In such circumstances, about the relationship of the intervener either with Sri Kishun Yadav or Hari Sagar Yadav can only be decided in presence of the petitioner.

Therefore, the court below has rightly allowed the intervention application. In such circumstances, the order passed by the Court below cannot be interfered with in supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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