

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14470 of 2015

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Ishwar Mahto & Anr

.... Petitioner/s

Versus

Sarita Kumari & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Maheshwar Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

5 19-10-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 08.07.2015 passed by Adhoc Addl. District Judge II, Nawada in Succession Certificate Case No.37 of 2012 whereby the Court below rejected the amendment application filed by the petitioners.

It appears that one Anoj Kumar was employee in CRPF, he died. Thereafter, the wife and minor daughter who are resident herein filed succession certificate case being Succession Certificate case No.37 of 2012 for issuance of succession certificate with respect to the dues payable to the deceased and also for pension and other benefits payable to the deceased. The petitioners being the parents of the deceased filed the objection stating that in fact they are entitled for the succession certificate. Both the parties adduced evidences and the case is at the stage of argument. At this stage application has been filed by the

petitioners for amendment in the objection alleging that the petitioners are only entitled for the succession certificate and, therefore, succession certificate may be granted in their favour and for that it may be treated as counter claim on behalf of the petitioners. The Court below by the impugned order has rejected this application.

It may be mentioned here that the petitioners are the parents of the deceased Anoj Kumar. In the succession certificate, the widow and minor daughter are claiming that they are entitled to the benefits payable to the deceased whereas in the objection, the petitioners being the parents are claiming that they are entitled for the benefits dues to be paid. Therefore, the main dispute itself to be decided in the succession certificate is who is entitled for the benefits that may be given to the relation of the deceased. Whether the petitioners are entitled for the same or not and if they are entitled then what will be the extent. When the main dispute itself is to be decided in the certificate case, in my opinion, it being the pure question of law not required to be pleaded and, therefore, whatever right the petitioners have got they are entitled to raise these questions in the argument and if these questions are raised, the Court below shall decide the same. The amendment sought for is not the amendment regarding the fact rather in my

opinion, it is pure question of law and pure questions of law can be raised at any stage as the question of law are not required to be pleaded.

In view of the above facts and circumstances of the case, I find no reason to interfere with the impugned order. As such this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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