IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2604 of 2016

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Bimal Devi

.... Petitioner/s

Versus

Bina Devi & Ors

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Bhola Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

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2 14-07-2016 Heard the learned counsel, Mr. Bhola Kumar, for the petitioner on the interlocutory application No.5560 of 2016.

This application has been filed for substitution of the legal representatives of the deceased sole petitioner. The application is allowed and the legal representatives are substituted in place of the deceased sole petitioner. They have already filed Vakalatnama.

Heard the learned counsel for the petitioner on merit.

Perused the order dated 18.09.2015 passed by Sub Judge Ist Samastipur in partition suit No.126 of 2011 / 383 of 2014 whereby the Court below has allowed intervention application filed by one Bina Devi for being added as party in the suit which has been filed for partition.

The learned counsel for the petitioner submitted that on the basis of which the application for intervention has been allowed, has already been set aside by Circle Officer, Warisnagar on

14.1.2016 holding that by suppressing the fact, she has got her name inserted in Pariwaric Pushtika. In fact she is not the daughter of Ramchandra Singh.

At the time of hearing of this writ application, the order passed by the Circle Officer dated 14.1.2016 was produced before this Court. From perusal of this order itself, it appears that there is dispute between the petitioner and Bina Devi regarding parentage. In the present suit, therefore, this dispute between the two, i.e., the petitioner and Bina Devi is to be decided finally by the Civil Court. This is the observation of the Circle Officer also in the aforesaid order.

In such view of the matter without giving opportunity to Bina Devi to prove that she is daughter of Ram Chandra Prasad, the application for intervention could not have been rejected by the Court below, therefore, in my opinion, the Court below has rightly allowed the same. For deciding this dispute about parentage, her presence is necessary. In other words, she is a necessary party in this partition suit.

Thus, I find no reason to interfere with the impugned order and accordingly, this writ application is dismissed.

Sanjeev/- **(Mungeshwar Sahoo, J)**

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