

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12075 of 2015

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Md. Saheb Jan

.... Petitioner/s

Versus

Bibi Asfa Khatoon & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 03-05-2016

Heard the learned counsel, Mr. Bhubneshwar Prasad for the petitioner.

Admittedly, intervention application filed by one Irshad Ahmad has already been rejected by the Court below and he is not a party to the suit. Against the rejection order, review application is pending. The present petitioner, who is defendant in this partition suit, filed application for enquiry under Order XXII Rule 5 of the C.P.C. for determining as to whether Irshad Ahmad is legal heir of Sajeeda Khatoon or not. The learned Court below by order dated 02.04.2015 passed in Partition Suit No.309 of 1998 has rejected this application.

Earlier the application under Order XXII Rule 5 C.P.C. was allowed. Since Irshad Ahmad is not a party to the suit, there is no question of determination of the heirship in partition suit at the instance of the defendant arises.

I, therefore, find no reason to interfere with the impugned order passed by the Court below as the Court below has rightly rejected the application.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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