

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1235 of 2016

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Nagina Devi wife of Mohan Upadhyay Daughter of Late Haribansh Pandey resident of village- Bahuara, P.S. Chand District- Kaimur at Present Village Sindura P.S. Chand District- Kaimur do hereby solemnly affirms and state as follows.

.... Appellant/s

Versus

1. Shakil Pandey son of Bidhyachal Pandey
2. Bipin Pandey son of Late Baba Pandey
3. Kameshwar Pandey
4. Baleshwar Pandey
5. Rajesh Pandey all 3 to 5 are sons of Late Rajendra Pandey
6. Munna Pandey
7. Santosh Pandey both 6 and 7 are sons of Bali Ram Pandey
8. Am Janta
9. Bindhyachal Pandey
10. Baliram Pandey both are sons of Late Ram ji Pandey All are Resident of village- Bahuara P.S. Chand District- Kaimur at Bhabhua. Respondent/s

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Appearance :

For the Appellant/s : Mr. Arabind Nath Pandey, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 06-07-2017

Heard learned counsel for the parties.

By the impugned order, the learned court below has turned down the prayer of the petitioner for being impleaded as party in the probate case filed by the respondents. The present application under Article 227 of the Constitution of India has been filed questioning the legal validity of the said order.

It appears from the submissions and the materials on record that the probate case was filed by the respondents seeking



probate of the will said to have been executed by Krishna Kuer. The petitioner claims to be the heir of the said Krishna Kuer who filed the petition under Order 1 Rule 10 (2) C.P.C. for being impleaded as party. The learned court below has rejected the said prayer of the petitioner to be impleaded as party in the probate proceeding. This Court does not find that the learned court below has committed any illegality in passing the impugned order wherein the petitioner claimed to be impleaded as party in a probate case only on the basis of claim of title over the property and has not denied or disputed the execution of the will in question. This view is also supported by an unreported judgment of this Court dated 20.07.2009 passed in C.R. No. 998 of 2009 (Anita Verma Vs. Lelawati Devi) a copy of which has been placed before this Court by the learned counsel for the respondents.

This application is, accordingly, dismissed.

However, the dismissal of this application will not prejudice the right or remedy of the petitioner, if any, which can be claimed in accordance with law in the probate case.

Devendra/-

(V. Nath, J)

AFR/NAFR	
CAV DATE	
Uploading Date	19.07.2017
Transmission Date	

