

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17664 of 2014

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1. Kitab Rai, son of Late Jyoti Rai
2. Rajendra Rai
3. Indradeo Rai
4. Sushil Rai, all sons of Kitab Rai
All residents of Village Saristabad Purbi Tola, P.S. Gardanibagh,
District Patna Proposed defendants in the court below
..... Petitioners

Versus

1. Ram Pravesh Rai, son of Late Vakil Rai
2. Mostt. Patia Devi @ Phulwasia Devi, wife of Late Jai Ram Rai, both
resident of Village Suarmarwa, P.S. Maner, District Patna
3. Sachita Nand Rai
4. Surendra Sai, both sons of Late Vakil Rai
5. Smt. Chandra Patia Devi, wife of Late Vakil Rai
6. Smt. Munni Devi, wife of Manoj Kumar
7. Smt. Champa Devi, wife of Late Rash Narain Rai
8. Dharmbir Kumar Rai
9. Chintu Kumar
10. Sintu Kumar
11. Ravi Kumar, all minor sons of Late Rash Narain Rai, all residents of
Village Suarmarwa, P.S. Maner, District Patna ... Plaintiffs in the court
below
12. Kameshwar Prasad Singh, son of Late Sakaldip Rai, resident of Village
Gupalpur, P.S. Gaurichak, District Patna
13. Basant Singh, son of Late Tek Narain Rai, resident of Saristabad Purbi
Tola, P.S. Gardanibagh, District Patna ... Defendants in the court below
..... Respondents

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Appearance :

For the Petitioners : Mr. Pramod Kumar Singh, Advocate
For Respondents 1 to 4 : Mr. Navin Kumar, Advocate
Mr. Brajnandan Singh, Advocate
For Respondent No. 12 : M/s Ajit Kumar & Avinash Kumar, Advocate
For Respondent No. 13 : Mr. Binod Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

5 10-02-2017 Heard Mr. Pramod Kumar Singh, learned Counsel
appearing for the petitioners and the learned Counsel for the
appearing respondents.

The legal sustainability of the impugned order, by which
the learned court below has turned down the prayer of the petitioners



to implead them as party-defendants in the probate proceeding/suit, has been questioned in this application under Article 227 of the Constitution of India.

The matrix of facts discloses that a proceeding for grant of probate or letters of administration on the basis of will dated 22.3.2001 executed by Ramdahin Rai, has been filed by the plaintiff-respondents. After contest the said proceeding appears to have been converted into a title suit. During the pendency of the proceeding the petitioners filed a petition for their impleadment as intervenor-defendants on the basis of assertion that Ramdahin Rai died leaving behind his only sister Ramrati Devi as his only heir and legal representative. It was the further case of the petitioners that the said Ramrati Devi also died in the year 2007 and thereafter her husband Sheodahin Rai inherited her estate. The petitioners came out with the case that in Lok Adalat Case No. 39 of 2007 the property, which was the subject matter of the will, came to the petitioners on the basis of compromise in the said proceeding. The learned court below by the impugned order after considering the facts and circumstances of the case has come to the conclusion that in the proceeding in Lok Adalat Case No. 39 of 2007 Sheodahin Rai, who was husband of Ramrati Devi, was impleaded as only a proforma respondent and the compromise petition filed in the said case was not verified or affidavited by Sheodahin Rai and also did not carry his signature on all the pages except page No. 11.

Mr. Singh, learned Counsel for the petitioners, during the course of submission has put emphasis on the genealogy of the



family of Mallu Rai as given in the petition filed by the petitioners in the learned court below and enclosed to this application also, in support of his submission that the petitioners being descendents from another branch of Mallu Rai are family members and have direct interest in the estate left behind by Ramdahin Rai. It has also been submitted on behalf of the petitioners that as according to the petitioners the alleged will by Ramdahin Rai was entirely a forged and fabricated document, the petitioners ought to have been impleaded as party defendant in the proceeding to bring the real facts before the Court.

After considering the submissions and the facts and circumstances of the case and also on perusal of the impugned order, it is pellucid that the petitioners have admitted the fact that after the death of Ramdahin Rai, his sister Ramrati Devi succeeded his estate. It has been further also admitted by the petitioners that after the death of Ramrati Devi, her husband succeeded her estate and through her husband Sheodahin Rai, the petitioners claim to have derived interest in the estate of testator Ram Dahin Rai on the basis of compromise decree in Lok Adalat Case No. 39 of 2007. However, the findings recorded by the trial court regarding the legality, validity and sustainability of the compromise decree passed by the Lok Adalat on the finding that Sheodahin Rai was made only a proforma respondent in the said case and the compromise petition filed therein was not verified or affidavited or carry his signature on all the pages, has not been controverted either in the averments in this application or during submission on behalf of the petitioners. The inference is



inevitable that the petitioners, who have not claimed the right, title and interest in the estate of the testator Ram Dahin Rai as his heir and have claimed the same solely on the basis of compromise decree in Lok Adalat Case No. 39 of 2007, have got no caveatable interest in the estate of the testator. The principle is also well settled by the apex Court in ***Krishna Kumar Birla v. Rajendra Singh Lodha. (2008) 4 SCC 300.***

In this back-drop, this Court is not inclined to interfere with the impugned order invoking the jurisdiction under Article 227 of the Constitution of India.

The application sans merit is, accordingly, dismissed.

(V. Nath, J.)

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