

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.505 of 2013

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Rajan Singh, Son of Yogendra Singh, Resident of Village - Fatehpur, P.S. -
Didarganj, District – Patna. Petitioner/Appellant.

Versus

Krishna Singh, Son of Late Bakhari Singh, resident of Village - Bahadurpur (Old),
P.S. - Sultanganj, P.O. - Rajendra Nagar, District – Patna. Respondent.

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Appearance :

For the Appellant : Mr. Abhay Kumar Thakur, Adv.
Mr. Sanjay Kumar, Adv.
For the Respondent : Mr. Mukul Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date: 20-11-2017

Re.: I.A. No.2056 of 2015

Heard learned counsel for the appellant and the
respondent.

The aforesaid I.A. has been filed by the appellant for
condonation of delay of 5 years 3 months and 25 days in filing this
appeal with the case that earlier he had filed C.W.J.C. No.1364 of
2009, which was finally taken up on 10.05.2013, after appearance
of the respondents. But on the prayer of the appellant, the writ
application was dismissed as withdrawn with liberty to prefer an
appeal against the impugned order and then the appellant has
preferred this appeal on 15.07.2013. Thus, there has been no
willful and deliberate laches on the part of the appellant rather the
said delay has occurred due to prosecuting the aforesaid writ
application. Learned counsel for the appellant has also filed a



photocopy of the order dated 10.05.2013 passed in C.W.J.C. No.1364 of 2009.

Learned counsel for the respondent opposed the said petition.

Having considered the facts and circumstances of the case and in the interest of justice, the aforesaid delay in filing this appeal is condoned and I.A. No.2056 of 2015 is allowed.

M.A. No.505 of 2013

This miscellaneous appeal has been filed against the order dated 26.07.2008 passed in Revocation Case No.162 of 2003 passed by the Additional District Judge XI, Patna, whereby the learned lower Court dismissed the petition for revocation of the succession certificate granted in Succession Case No.23 of 2002 in favour of respondent.

The factual matrix of the case is that one Mahesh Singh was Class-IV employee in Bihar State Housing Board, Patna who died unmarried on 08.01.1992. After his demise, brother of Late Mahesh Singh, namely, Krishna Singh filed Succession Case No.23 of 2002 for grant of succession certificate in his favour regarding retiral benefit etc. of deceased Mahesh Singh, which was allowed by the learned lower Court and succession certificate was issued in favour of Krishna Singh. For



revocation of the said succession certificate, petitioner/appellant- Rajan Singh claiming himself to be 'Bhagina' (sister's son), filed Revocation Case No.162 of 2003. The opposite party/respondent filed rejoinder against the said petition. Both the parties adduced their evidence in buttress of their case and after hearing the parties and perusing the record, the learned lower Court dismissed the aforesaid revocation case vide order dated 26.07.2008.

Being aggrieved and dissatisfied with the aforesaid order the petitioner/appellant has filed this miscellaneous appeal.

It is submitted by learned counsel for the appellant that appellant happens to be 'Bhagina' & nominee of the deceased Mahesh Singh. He ought to have been made party in the succession case and order in the succession case ought to have been passed after issuing notice and hearing him. It is further submitted that besides opposite party, there are two other sisters of Mahesh Singh, as admitted by the respondent himself and being heirs of deceased Mahesh Singh, they are also entitled to get the succession certificate regarding the aforesaid estate of the deceased but the aforesaid persons have not been made party in the succession case and without hearing them the learned lower Court below has granted the succession certificate in favour of Krishna Singh. Hence, the aforesaid order passed by the learned



lower Court is liable to be revoked.

On the other hand, learned counsel for the respondent has submitted that the appellant has no locus standi to file the revocation case as he happens to be only nominee of the Mahesh Singh and being the nominee, he is only entitled to collect the money and disburse the same to the beneficiaries but as the heir of the deceased himself filed succession case, the nominee has no locus standi to be impleaded in the said succession case and file the revocation case.

From perusal of the record, it appears that admittedly the appellant happens to be 'Bhagina' and nominee of the Mahesh Singh. It is also admitted case of the parties that Mahesh Singh died leaving behind respondent-Krishna Singh and two other sisters but the said sisters have not been made party in the said succession case filed by the respondent. Being the sisters and heirs of the deceased, they are also entitled to the estate of the deceased and must have been made party in the succession case but as the appellant happens to be the nominee of the deceased Mahesh Singh he happens to be only agent of the deceased and is only entitled to collect the money payable to the deceased after his demise and reimburse the same to the actual beneficiary and he has got no right and interest in the property of the deceased and



has no locus standi to be impleaded in the succession case and get the succession certificate granted in favour of one of the heirs of the deceased revoked.

In the facts and circumstances of the case, I find no illegality and impropriety in the impugned order passed by the learned lower Court and accordingly this appeal is dismissed. However, the sisters of the deceased Mahesh Singh may file a revocation petition, if so advised, and the same would be considered by the learned lower Court in accordance with law.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	NA
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