

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.23 of 2016

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Mahant Tapes Goswami Chela of Rameshnandan Goswami, resident of Hans
Kabir Gashmohini, P.S. Gogri, P.O. Gopalpur, District-Khagaria.

.... Petitioner/s

Versus

1. Kailash Goswami, Chela of Late Chunni Goswami, resident of Makwa Kabir
Math, P.O. Makwa, P.S. Asarganj, District-Munger.
 2. Budhadeo Das, Chela of Late Tilak Das, resident of Hazipur, P.S. Hajipur,
District-Hajipur.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 08-03-2017

Heard Mr. J.K. Verma, learned counsel for the petitioner.

By the impugned order which is under challenge in this
revision application, the learned court below has passed the order
under Order 22 Rule 5 C.P.C. in pursuance to the direction of this
Court dated 01.03.2005 passed in F.A. No. 700 of 1986.

After considering the submissions and perusal of the
materials on record, it appears that after the demise of the respondent
(Ramesh Nandan Goshwami) in the said F.A. No. 700 of 1986 and in
view of the rival claims for heirship of the said deceased respondent,
by order dated 01.03.2005, this Court remitted the issue to the trial
court in accordance with the provisions of Order 22 Rule 5 C.P.C. It is
the contention on behalf of the petitioner that during the pendency of



the proceeding in the learned court below, Mr. Kailash Goswami filed a petition claiming to be the Mahant of Hans Kabir Math and the learned court below after considering his claim has declared him to be the only legal representative of the deceased respondent Ramesh Nandan Goshwami. It has, therefore, been contended that the learned court below has not acted properly in entertaining the prayer of the intervener therein after the remand order of this Court under Order 22 Rule 5 C.P.C.

This Court finds that the impugned order has been passed under Order 22 Rule 5 C.P.C. in accordance with the direction of this Court in the first appeal where the finding has been called for from the court below. This Court is thus not inclined to interfere in the impugned order under Section 115 C.P.C. as the same matter is subjudice before this Court in another jurisdiction in F.A. No. 700 of 1986.

The revision application is, accordingly, disposed of with liberty to the petitioner to raise all objections available to him in accordance with law in the First Appeal No. 700 of 1986.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.05.2017
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