

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.844 of 2018

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1. Janardan Prasad, S/o Late Satyanarayan Prasad, R/o Main Road, P.O. & P.S.- Mairwa, Distt- Siwan. Appellant/s

Versus

1. Anil Kumar,
2. Pradeep Kumar,
3. Pramod Kumar, All S/o Late Yugal Kishore, R/o Vill- Balethra, P.S.- Umao, P.O.- Balethra, Distt- Balia (U.P.)
4. Sandhya Kumari, D/o Late Yugal Kishore, R/o Vill- Balethra, P.S.- Umao, P.O.- Balethra, Distt- Balia (U.P.)
5. Ishwar Chand
6. Dharendra Kumar @ Dharmendra,
7. Jagdish Prasad, All S/o Late Satyanarayan Prasad, R/o Main Road, P.O. & P.S.- Mairwa, Distt- Siwan. Respondent/s

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Appearance :

For the Appellant/s : Mr. Parth Gaurav

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

2 13-09-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this Civil Misc. petition against the order dated 20.04.2018 passed by the learned Additional District Judge-I, Siwan in Misc. Case No. 31/2014 by which the petitioner and respondent Nos. 5 to 7 were substituted in place of Surendra Prasad, who died on 07.09.2017.

The learned counsel for the petitioner submits that one Kalawati Devi executed an unregistered will in favour of Surendra Prasad. Surendra Prasad filed Probate Case No. 3 of 2009 and vide order dated 27.04.2012 the will was probated in favour of Surendra Prasad. Later on descendants of Kalawati Devi filed Misc. case No. 31 of 2014 for revocation of letters of administration issued in favour of Surendra Prasad. During the pendency of Misc. Case No. 31 of 2014 a petition for substitution of petitioner and his three brothers, respondent Nos. 5 to 7 was



filed. The petitioner filed petition that during his lifetime Surendra Prasad executed a will in his favour, therefore, he is only legal heir of Surendra Prasad but the court below leaving aside the question as to who is legal heir of Surendra Prasad directed for substitution of all the four persons by the impugned order. Being aggrieved by the aforesaid order the petitioner filed this Civil Misc. petition and submitted that respondent Nos. 5 to 7 should not have been substituted in place of Surendra Prasad as the petitioner is only heir of Surendra Prasad by virtue of will executed in his favour by Surendra Prasad.

I do not find any force in the submission of the learned counsel for the petitioner on the simple ground that petitioner and respondent Nos. 5 to 7 are sons of Satyanarayan Prasad, brother of Surendra Prasad, and they all are legal heirs of Surendra Prasad. In the petition for revocation of letters of administration the genuinity of the will executed by Surendra Prasad cannot be looked into. In the present case in the absence of Surendra Prasad all his legal heirs are entitled to be substituted. Therefore, I do not find any jurisdictional error in the impugned order. This Civil Misc. petition is dismissed as devoid of merit.

(Prabhat Kumar Jha, J)

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