

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19476 of 2014

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Ram Swarup Singh Son of Late Mahadeo Singh, resident of village Bharwar Tola Rabhan Bigha, P.O. Belsara, P.S. Muffasil Aurangabad, District Aurangabad (Bihar).

.... Petitioner

Versus

1. Rajendra Singh
2. Satyendra Singh
3. Bijendra Singh
4. Upendra Singh
5. Jitendra Singh
All sons of Late Mukhdeo Singh
6. Ramadhar Singh
7. Vijay Singh
Both Sons of Late Kameshwar Singh
All are resident of Village Bharwar, Tola Rabhan Bigha, P.O. Belsara Deo, P.S. and District Aurangabad (Bihar).
8. Satya Narayan Singh
9. Jag Narain Singh
10. Ram Dular Singh
Sons of Late Mangeshwar Singh
11. Ram Kumar Singh
12. Ram Kandal Singh
Both Sons of Late Mahadeo Singh
All are resident of Village Bharwar, Tola Rabhan Bigha, P.O. Belsara Deo, P.S. and District Aurangabad (Bihar).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Yogendra Kumar Sinha, Advocate
Mr. Ratneshwar Prasad, Advocate
Ms. Nitu Kumari, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 16-08-2018

Petitioner before this court is intervener. He has filed this writ application for quashing the order dated 23.07.2014 passed by learned Subordinate Judge III, Aurangabad in Title Suit No.51 of



2013. The court below as per impugned order allowed the petition filed on behalf of the petitioner and impleaded him as defendant but his prayer to substitute him in place of plaintiff was rejected.

2. Heard learned counsel for the petitioner.

3. It appears that one Raja Singh filed the aforesaid suit for declaration of his title and confirmation of possession over 1 bigha 5 katha of R.S.Plot No.2153 corresponding to C.S. Plot No.1804 as mentioned in Schedule I of the plaint. After death of sole plaintiff Raja Singh, this petitioner claiming title over the suit land filed a petition under Order 22 Rule 3 read with Order 1 Rule 10 (2) of C.P.C. on the basis of a Will executed by the plaintiff Raja Singh. In the said suit, five persons claiming heirs of said Raja Singh also filed a petition for substituting them in place of deceased plaintiff. The said five persons were substituted in place of plaintiff as per said order dated 23.07.2014. The petitioner being aggrieved by the said order filed this writ application.

4. It has been submitted that the petitioner has acquired right, title and possession on the basis of Will executed by sole plaintiff and so he has right to proceed with the said suit. The court below after hearing both sides as per detailed order refused to substitute the petitioner in place of plaintiff. It appears that the petitioner claimed land measuring 78 ½ decimals out of total area,



measuring 8 bigha 5 katha. The court below relying on the ruling reported in 1992 (2) P.L.J.R. 129 has rejected his prayer and impleaded him as defendant to the suit. The petitioner admittedly is not the heir of deceased rather his claim is based on a deed of Will for which he has filed a probate case. The heirs of deceased have already been substituted in place of plaintiff.

5. In view of above discussions, I find that the court below has not committed any jurisdictional error in impleading this petitioner as defendant to the suit instead of substituting him in place of plaintiff. This writ application is devoid of merit and is, accordingly, dismissed.

(Sanjay Kumar, J)

Harish/-

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CAV DATE	
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