

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2057 of 2017**

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Smt. Sumitra Devi, Wife of Late Bishundeo Singh, resident of Village Mahangupur Phulwari, now Janipur, District- Patna.

... .. Petitioner/s

Versus

1. Manoj Kumar, Son of Kameshwar Singh,
2. Mukesh Kumar, Son of Late Kameshwar Singh,
3. Prabhavati Devi, Widow of Late Raj Nandan Singh.
4. Awdhesh Prasad Singh, Son of Late Ram Lagan Singh.
5. Satya Narain Singh, son of Late Dwarika Singh,
6. Sriniwash Singh @ Sharma,
7. Jitendra Sharma @ Mantoon,
8. Manoranjan Singh @ Gopal All sons of Sri Awadhesh Prasad Singh. Manoranjan Singh @ Gopal is under the natural guardianship of his father Sri Awdhesh Prasad Singh,
9. Meera Devi, Wife of Mukund Bihari Sharma, resident of Village and P.S. Janipur, District- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Madhuri Kumari
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 11-12-2018 Heard both sides.

The petitioner filed this petition against the order dated 23.08.2017 passed by Sub Judge X, Patna in Title Suit No.485 of 1995 by which the petition of the plaintiff for expunging the name of plaintiff No.1, Kameshwar Singh after his death is allowed.

Petitioner is the defendant. Learned counsel for the petitioner submits that according to the provisions as contained in Order XXII Rule 3(2) C.P.C. that if any of the plaintiff or plaintiffs dies and right to sue does not survive but the plaintiff



is not substituted, the suit shall abate but it appears that the plaintiff Nos.2 and 3 informed the court about the death of plaintiff No.1 immediately after the death of plaintiff No.1 and later on, filed petition that plaintiff No.1 died leaving behind plaintiff Nos.2 and 3 who are already on record and, therefore, prayed to expunge the name of plaintiff No.1. Learned court below allowed the petition of the plaintiff and directed to expunge the name of plaintiff No.1 from the cause title of the suit. Therefore, I do not find any illegality or jurisdictional error in the order. Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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