

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1153 of 2017

Hari Sumiran Singh, son of Late Sardar Avtar Singh, resident of Mohalla-Salimpur Ahra, P.S.- Gandhi Maidan, District- Patna.

... .. Petitioner

Versus

1. Madhusudan Singh,
2. Indrajeet Singh, Both sons of Late Sardar Avtar Singh, resident of Mohalla-Salimpur Ahra, Baulia, P.S.- Gandhi Maidan, District- Patna.
3. Shri Jujhar Singh, son of Late Sardar Avtar Singh, resident of Mohalla-Salimpur Ahra, Baulia, P.S.- Gandhi Maidan, District- Patna. presently residing at Salasar Greens, B-501 Sant Ravidas Ward- 70, Sarona, Tatibandh, Raipur- 492010.
4. Jasbir Kaur, wife of Sardar Daljeet Singh, Daughter of Late Sardar Avtar Singh, resident of Pranjali Apartment, West Boring Canal Road, P.S.- S.K. Puri, District- Patna. at present resident of S-602, Jasmin, S.B.I. Colony, Sector-13, Merul Navi, Mumbai 400706.
5. Narendra Kaur, w/o Pritpaljeet Singh, Daughter of Late Sardar Avtar Singh, resident of 7 Circuit House Area, East Jamshedpur, Jharkhand.
6. Smt. Arvind Kaur, wife of Mahendra Singh and daughter of Late Sardar Avtar Singh, resident of Mohalla- Salimpur Ahra, Baulia, P.S.- Gandhi Maidan, District- Patna.
7. Estate of Late Shanti Devi, wife of Late Sardar Avtar Singh, resident of Mohalla- Salimpur Ahra, Baulia, P.S.- Gandhi Maidan, District- Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr. Prem Kumar Verma, Advocate
For the Respondents : Mr. Navin Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 01-10-2018 Heard both sides.

The petitioner has filed this civil miscellaneous petition against the order dated 20.05.2017, passed in Title Suit No.30 of 2016 by which the learned Additional District Judge-X, Patna allowed the amendment petition filed by the plaintiff.

The petitioner is defendant in Title Suit No.30 of 2016. Respondents no.1 to 3 filed probate case for probating the



Will of their mother, Shanti Devi. The petitioner objected the probate case and on such the probate case was converted to Title Suit No. 30 of 2016. The applicant filed petition for correcting the date of death of husband of the testatrix, Shanti Devi as 18.01.1992 in place of 19.01.1992 and further sought deletion of the words that “during his lifetime her husband had partitioned the entire joint family property amongst his four sons”. The learned Additional District Judge-X, Patna after hearing both sides, by the impugned order allowed the amendment petition holding that Amendment No.1 is in order to correct the date of death of the husband of the testatrix and the Amendment No.2 is of formal nature and it has got no bearing on the merit of the suit. The statement is unnecessary and unbelievable, therefore, allowed the deletion.

Being aggrieved by the aforesaid order, the learned counsel for the petitioner submits that the petitioner has got no objection with regard to Amendment No.1 but so far as Amendment No.2 is concerned, it has got bearing in the partition suit. It is admission on the part of the respondents no.1 to 3 that during the life time of the husband of the testatrix, the husband of the testatrix, propounder of the Will partitioned all the properties amongst the four sons but I find no substance in



the submission of the learned counsel for the petitioner. In the probate suit the genuineness of the Will is to under challenge. Any statement with regard to the partition of the property by the husband of the propounder of the Will is irrelevant statements and if such irrelevant statements are allowed to be deleted, I do not find any jurisdictional error or illegality.

Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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