

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.97 of 2016

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1. Vijay Singh
2. Ram Ekbal Singh
3. Ram Akhilesh Singh All Sons of late Sita Ram Singh All Resident of Village- Nirajapur, Gaura, Police Station- Naubatpur, District- Patna.

.... Petitioner/s

Versus

1. Keshar Devi Wife of Nathuni Singh All Resident of Village- Nirajapur, Gaura, Police Station- Naubatpur, District- Patna.
2. Arun Kumar W/o late Nathuni Singh Village- Chhotkii Kopa, P.S. Chhotki Kopa, P.S. Naubatpur, District Patna.
3. Vijay Singh S/o late Nathuni Singh Village- Chhotkii Kopa, P.S. Chhotki Kopa, P.S. Naubatpur, District Patna.
4. Sri Dina Nath Singh Son of Harbansh Singh
5. Sheo Singh Son of late Haresh Singh

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mritunjay Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 04-01-2018 Heard both sides.

The petitioners filed this civil miscellaneous petition against the order dated 08.09.2015 passed in Title Suit No.199 of 1980 by which the learned Sub Judge IV, Patna dismissed the petition filed by the petitioners under Order I Rule 10 read with Section 151 C.P.C..

Sitaram Singh, father of the plaintiff filed Title Suit No.199 of 1980 for partition of the properties mentioned in schedule of the plaint. The suit was decided ex parte and on



15.09.1987, preliminary decree was prepared. The plaintiff filed a petition for appointment of survey knowing pleader commissioner but thereafter Sitaram Singh died in the year 1991. The petitioners filed the petition under Order I Rule 10 read with Section 151 C.P.C. only on 24.04.2012 to implead them as plaintiff. The learned Sub Judge rejected the petition of the petitioners that without filing petition under Order 22 Rule 3 C.P.C. for substitution along with the limitation petition, the petitioner filed petition under Order I Rule 10 C.P.C. which is not maintainable.

The learned counsel for the petitioners after some argument seeks permission to withdraw this petition with liberty to file petition under Order 22 Rule 3 C.P.C. for substitution of the petitioners in place of his father, the plaintiff of Title Suit No.199 of 1980.

The learned counsel for the respondents did not raise any objection.

Accordingly, this civil miscellaneous petition is disposed of as withdrawn with the aforesaid liberty.

(Prabhat Kumar Jha, J)

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