

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4317 of 2014

- =====
1. Beer Bahadur Singh
 2. Surendra Singh @ Surendra Prasad Singh
Both sons of Late Chand Deo Singh.
All residents of Mohalla- Gausganj, Ara, P.O.- Ara Town, District- Bhojpur.
 3. Moti Devi alias Motijharo Devi, daughter of Late Chand Deo Singh and wife of
Dadan Singh, resident of village- Masaurha, P.S.- Durgawati, District- Bhojpur.
.... Petitioner/s
- Versus
1. Madhuri Devi wife of Satendra Kumar Singh, resident of Mohalla- Gausganj,
Ara, P.S.- Ara Town, District- Bhojpur.
...Plaintiff- Respondent 1st set.
 2. Most. Ram Kumari Kuar, widow of late Deena Nath Singh.
 3. Ravindra Singh son of late Deena Nath Singh
 4. Ajit Singh son of late Deena Nath Singh
 5. Sunil singh son of late Deena Nath Singh
Nos. 2 to 5 are residents of Mohalla- Gausganj, Ara, P.S.- Ara Town, District-
Bhojpur. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Dr. Amar Nath Singh, Adv.
For the Respondent/s : M/s. Pancham Lal Jaiswal,
Abinash Kumar and Amit Anand, Advocates

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-08-2018

Petitioners before this Court are defendants of Title Suit No.

5 of 2010 arising out of Letters of Administration Case No. 63 of 2008
pending in the court of Additional District Judge-II, Ara, Bhojpur.

2. Heard both sides and perused the record.

3. The respondent no. 1 filed the aforesaid L.A. Case No. 63
of 2008 (subsequently converted into Title Suit No. 5 of 2010) for grant of
letters of administration on the basis of registered deed of Will executed by
late Chand Deo Singh in her favour on 17.04.2007. The petitioners
appeared and filed objection. After settlement of issue, both the parties
examined their witnesses. The petitioners filed a petition before the court



below praying therein to appoint an Advocate Commissioner to record the evidence of Dr. Ashok Prasad with a Psychiatry residing at Ranchi for his evidence.

4. It has been submitted that the said doctor had treated late Chand Deo Singh on several occasions and so in order to prove the prescription and medical papers, his evidence is essential to be recorded. The respondents filed objection and the court below after hearing both sides rejected the said petition. It appears that the court below while rejecting the prayer of petitioners has observed that the concerned doctor is presently residing at Ranchi. The petitioners have not disclosed the age of doctor or any reason to show his inability to appear before the court for his evidence. The court below however observed that if the petitioners want to examine him as witness, it would issue summons for his evidence. The learned court below has rejected the petition as per reasoned order. The court below however has given liberty to the petitioners to get the summons issued for the evidence of the doctor.

5. In view of above facts, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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