

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17555 of 2014

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Babban Prasad Singh, son of late Nathu Singh, resident of village- Madhe, P.O. Ankorha, P.S. Nabi Nagar, District- Aurangabad (Bihar), at present residing at Krishnapuri, P.O. & P.S. Chutia, District- Ranchi.

.... Petitioner/s

Versus

1. Estate of Late Tapeswari Singh.
2. Sushila Kuer, wife of late Umesh Prasad Singh, daughter of late Tapeswari Singh, resident of village Goura, P.S. Shiv Sagar, District- Rohtas at Sasaram (Bihar).
3. Bina Devi, wife of late Dadan Singh, daughter of late Tapeswari Singh, resident of village Damodarpur, Jigni, P.O. & P.S. Bhabhua, District- Kaimur, at present residing at Bina Bhawan, Railway Mal Godam Road, P.S. & P.S. Kaimur, District- Bhabhua (Bihar)
4. Urmila Kuer, wife of late Sahjada Singh, daughter of late Tapeswari Singh, resident of Village- Kauri Ram, P.O. & P.S. Mohania, District Kaimur, Bhabhua (Bihar).

.....S1.Nos. 1 to 4 Opposite Parties / Respondents.

5. Vishwanath Singh, son of Late Nathu Singh, resident of village Madhe, P.O. Ankorha, P.S. Nabi Nagar, District- Aurangabad (Bihar), at present residing at Road No. 24, Rajiv Nagar, P.O. Rajiv Nagar, P.S. Patliputra, District- Patna (Bihar).
6. Lallan Singh, son of late Nathu Singh, resident of village Madhe, P.O. Ankorha, P.S. Nabi Nagar, District- Aurangabad (Bihar).
7. Parasnath Singh, son of late Nathu Singh, resident of village Madhe, P.O. Ankorha, P.S. Nabi Nagar, District- Aurangabad (Bihar), at present resident of C/o Sarju Singh, Village- Ahri, P.O. & P.S. Aurangabad, District-Aurangabad.

.....S1.Nos. 5 to 7 Applicants/Proforma Respondents.

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Adv.
For the Respondent/s : Mr. Satyavrat Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 13-07-2018

Petitioner before this Court is plaintiff of Probate Case No.11 of 2012. He has filed this application for quashing the order dated 18.11.2013 and 09.05.2014 passed by 1st Additional District Judge, Aurangabad. The learned court below, as per the order dated



18.11.2013, allowed the intervenor petition filed by the daughters of deceased Tapeswari Singh and impleaded them as opposite parties to the probate case. The court below further rejected the amendment petition filed by the petitioner as per order dated 09.05.2014.

2. The petitioner before this Court has filed Probate case with respect to the estate of deceased Tapeswari Singh who died leaving behind three daughters. This petitioner is one of the son of Nathu Singh who was full brother of Tapeswari Singh. The said Tapeswari Singh had one more brother, namely, Saryug Singh who died issueless. The Probate case was filed without impleading the daughters of deceased Tapeswari Singh as party to the Probate case. All the three daughters of deceased Tapeswari Singh filed intervenor petition for impleading them as opposite parties to the Probate case. They have challenged the genuineness of deed of Will purported to be executed by their father in favour of this petitioner. The daughters of deceased Tapeswari Singh are necessary parties to the suit and so the court below has rightly impleaded them as opposite parties to the Probate case.

3. So far the impugned order dated 9.5.2014 is concerned, the petitioner wants to add some more paragraph in order to bring new fact to this effect that the daughters of deceased Tapeswari Singh cannot be members of coparcenary family according



to Hindu Law, as the said Tapeshwari Singh died on 17.07.1990. The learned court below while rejecting the amendment petition has observed that in a probate case, the Court is required to examine the genuineness of Will. The status of parties as to whether they are members of coparcenary family or not, cannot be taken into consideration while deciding the issue relating to genuineness of Will. The amendment, if allowed, would certainly complicate the matter and change the nature of the case.

4. In view of above facts, this application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23.07.2018
Transmission Date	N/A

