

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7645 of 2014

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Saraswati Devi D/O Late Sitaram Sah and wife of Sri Ram Kumar @ Bhulan Sah a resident of village - Gaighat, P.S. - Brahmpur Dist - Buxar, presently residing at Gajadharganj (Purab Tola) Buxar, P.S. - Buxar (T), District - Buxar.

.... Petitioner

Versus

1. Uma Shankar Prasad s/o Late Sitaram Sah a resident of Village - Barka Bisupur Mahuwar, P.S. - Shahpur, District - Bhojpur presently residing at Gajadharganj (Purab Tola) Buxar, P.S. - Buxar (T), District - Buxar.
2. Laxmi Devi D/O Late Sitaram Sah and wife of Dwarika Sah residing at Shahpur, P.S. Shahpur, District - Bhojpur (Ara), presently residing at Gajadharganj (Purab Tola) Buxar, P.S. - Buxar (T), District - Buxar.
3. Aarti Devi @ Arati Devi D/O Late Sitaram Sah and wife of Binod Kumar Sah residing at Damodarpur, P.S. - Shahpur, District - Bhojpur (Ara).

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajni Kant Jha, Advocate
For the Respondent no.1 &3 : Mr. Jitendra Prasad Singh, Advocate
For the Respondent no.2 : Mr. Ashok Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 29-01-2018 This application has been filed to set aside the order dated 10.01.2014 passed by 2nd Additional District Judge, Buxar in Title Suit No.13 of 2010 whereby and whereunder the amendment petition filed on behalf of the petitioner to amend the probate application was refused.

2. Heard learned counsel for the petitioner as well as the respondents.

3. It appears that the petitioner filed a probate case for grant of probate with respect to the property left by her father. The



respondents are full brother and sisters of the petitioner. The respondents filed their written statement before the court below and challenged the genuineness of the bill executed by the deceased in favour of the petitioner. The petitioner in view of contention of respondents in the written statement filed an amendment petition for inserting some facts in the pleadings. The petitioner by proposed amendment wants to introduce some facts relating to mode of acquisition of property by the deceased. She further wants to introduce the fact that she had rendered services to the deceased and further that the respondents were not serving the deceased while testator was residing at Buxar. The court below has not framed issues and the trial is at initial stage. The proposed amendments appear simple in nature and it does not change the nature of the suit as pleaded by the petitioner.

4. In view of the above facts, the impugned order dated 10.01.2014 refusing to amend the plaint is set aside. This writ application is allowed. The respondents are at liberty to file additional written statement with respect to amended pleading.

(Sanjay Kumar, J)

B.Kr./-

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