

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19447 of 2014

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Ravi Kant Singh @ Surya Kumar Singh S/o Late Kaushalendra Kumar Singh,
Chela Sri Rangdas Ji Maharaj Sevait, Mutwali, Manager and Mahanth Sri
Chandeshwar Kali Mandir of Village Chanauthu, Mohalla Company Sarai,
Presently New Ward No. 12, P.O. and P.S. Sasaram, District Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Rohtas at & P.O. Sasaram, District Rohtas.
2. Executive Engineer, National Highway Division, P.W.D. At & P.O. & P.S. Dehri, District Rohtas.
3. Hari Narain Singh S/o Late Ram Prasad Singh R/o Mohalla Company Sarai, Rajput Colony, Sasaram, Ward No. 9, P.S. Sasaram (M), District Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Advocate

For the Respondent/s : Mr. Ranvijay Singh, AC to SC-23.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 14-09-2018

This application has been filed for quashing the order dated 04.04.2014 passed by Adhoc Additional District Judge-IV, Rohtas at Sasaram in Title Appeal No.43 of 1999. As per impugned order, the learned court below allowed the substitution petition and impleaded the intervenor Hari Narain Singh as appellant.

2. Heard learned counsel for the petitioner and the respondents.

3. It appears that one Kaushlendra Kumar Singh in the capacity of Sebait filed a Title Suit for the deity against the State of Bihar. The said suit was dismissed and thereafter the said



Kaushlendra Kumar Singh filed Title Appeal No.43 of 1999. After the death of Sebait, this petitioner on the strength of a registered deed of appointment of Sebait dated 07.02.2011 filed a petition before the lower appellant court for substituting him in place of Kaushlendra Kumar Singh. It appears that one Hari Narain Singh also filed a petition on 06.08.2013 under Order 1 Rule 10(2) read with Section 151 of CPC for impleading himself as appellant no.2 after substituting the original appellant Kaushlendra Kumar Singh. The learned court below allowed both the petition and substituted both in place of original appellant.

4. The learned counsel for the petitioner submitted that the original appellant Kaushlendra Kumar Singh had duly appointed this petitioner as Sebait as per registered deed of appointment dated 07.02.2011. The another petitioner Hari Narain Singh in order to gain illegal advantage brought into the existence, a forged fabricated document namely, memorandum of appointment and filed the petition under Order 1 Rule 10 of CPC. The said document is a forged document and on that basis the intervenor cannot be impleaded as party to the appeal. The interest of intervenor is adverse to the interest of present appellant and so two persons having conflicting interest cannot be allowed to remain on one platform. The order of learned court below is not legally sustainable and is fit to be set aside.



5. The learned counsel for the respondents on the other hand submitted that the suit was initially filed against State of Bihar. The intervenor in order to protect the interest of deity wants to prosecute the appeal and so the court below has not committed any error in impleading the intervenor Hari Narain Singh as appellant and so the impugned order does not require any interference.

6. On going through the documents on record and submission of both the parties, I find that on the original appellant died on 22.06.2013. This petitioner on the strength of registered deed of appointment of Sebait has filed substitution petition. The intervenor on the other had has filed an unregistered paper purported to be executed by original appellant Mahanth Kaushlendra Kumar Singh. On perusal of said memorandum, it appears that the description of registered deed of appointment executed in favour of this petitioner finds mentioned in the said document. This shows that the intervenor had knowledge about the said document which was executed on 07.02.2011. This document was neither challenged by original appellant Mahanth Kaushlendra Kumar Singh nor the intervenor petitioner Hari Narain Singh has challenged the same. Thus, I find that the learned court below has erred impleading the said intervenor as appellant who has adverse interest against the present petitioner who has also been impleaded as appellant.



7. In this view of the matter, the order impleading the intervenor Hari Narain Singh as appellant is not sustainable and to this extent, the impugned order is set aside. This writ application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
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