

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.30 of 2018

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Anil Prakash Sinha

.... Appellant/s

Versus

Lallan Prasad Sinha & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar

For the Respondent no. 1 : Mr. Amarnath Deo

For the Respondent no. 2 : Mr. Nilanjan Chatterjee

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

4 12-02-2018

Heard Mr. J.S. Arora, learned counsel appearing on

behalf of the petitioner and Mr. Amarnath Deo and Mr. Nilanjan

Chatterjee, learned counsels for respondent nos. 1 and 2 respectively.

This Civil Misc. petition is filed against the order dated 18.12.2017 by which the learned District Judge, Patna has dismissed the petition of the petitioner filed under Section 24 of the Code of Civil Procedure to hear Probate Case No. 152/2016 converted to Title Suit No. 31/2017, Probate Case No. 31/2017 converted to Title Suit No. 4/2018 and Probate Case No. 32/2017 converted to Title Suit No. 5/2018 in one court.

The facts, which are relevant for disposal of this case, are in short that the petitioner Anil Prakash Sinha and respondent no. 1, namely Lallan Prasad Sinha, both are sons of late Purnendu Narayan Sinha. Respondent no. 2 Vijayant Sinha @ Gaurav is the son of the petitioner Anil Prakash Sinha. The mother of Anil Prakash



Sinha executed a Will on 22.12.2015 with regard to a residential house situated in Road No. 11, Rajendra Nagar for which Probate Case No. 152/2016 was filed and on contest, the same was converted to Title Suit No. 31/2017. The mother herself executed another Will on 30.09.2016 with regard to the same property for which Probate Case No. 31/2017 was filed and on contest, the same was converted to Title Suit No. 4/2018. Father of the petitioner and respondent no. 1 executed a Will with regard to the entire joint property and for probate of the Will of the father of the petitioner and respondent no. 1, Probate Case No. 32/2017 was filed, but on contest, the same was converted to Title Suit No. 5/2018. Title Suit No. 31/2017, arising out of Probate Case No. 152/2016, is pending in the court of learned Additional District Judge Xth, Patna and Title Suit Nos. 4/2018 and 5/2018, arising out of Probate Case Nos. 31/2017 and 32/2017 respectively are pending in the court of learned Additional District Judge VIIth, Patna.

Learned counsel for the petitioner submits that all these cases be heard by one court so that the concerned court may appreciate the facts in true perspective and the dispute between the two brothers.

Mr. Amarnath Deo, learned counsel for respondent no. 1 has controverted the submissions of the learned counsel for the petitioner on the ground that in Title Suit No. 31/2017, the pleadings



are complete and the plaintiff has already filed his examination-in-chief on affidavit.

However, Mr. Nilanjan Chatterjee, learned counsel for respondent no. 2 has raised no objection, if all the three suits are heard by one court.

Having heard the submissions of both the parties and on perusal of the records, I find that the mother and father of the petitioner and respondents executed three Wills which are the matter of dispute between the two brothers. Therefore, I find that it would be better and in the interest of justice that all the three suits be heard by same court, if possible, side by side.

Accordingly, I set aside the order dated 18.12.2017 passed by the learned District Judge and direct that all the three suits be heard by the learned Additional District Judge Xth, Patna.

Let the records of Title Suit No. 4/2018 and Title Suit No. 5/2018 be transferred to the court of the learned Additional District Judge Xth, Patna.

The court shall dispose of all the three cases, if possible, preferably within a period of one year.

(Prabhat Kumar Jha, J.)

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