

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1175 of 2018**

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Bhamati Pandey Wife of Dr. Dinesh Mishra, Resident of Banu Chapra, P.S. Bettiah, District-west Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Law, Government of Bihar, Patna.
2. Smt. Pushpa Shukla, Wife of Binay Krishna Shukla and Daughter of Late Anirudh Pandey, Resident of 5, Mitra Vihar, West Boring Canal Road, P.O. G.P.O., P.S. Shri Krishna Puri, District-Patna.

... .. Respondents

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Appearance :

For the petitioner	:	Mr. Amaresh Kumar Sinha, Advocate
For the State	:	Mr. Mritunjay Kumar, AC to GP3
For Res. No.2	:	Mr. B.K. Shukla, Advocate
		Mr. S. Parasmani, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 03-12-2018 Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of respondent no.2.

The petitioner filed a succession case but the office pointed out that the succession certificate is filed for issuance of succession certificate of Rs.11,00,000/- by the deceased Anirudh Pandey and his wife Pratibha Devi. The Saristedar in his stamp report directed the petitioner to deposit Rs.88,400/- as valuation of the petition.

Learned counsel for the petitioner submits that the petitioner filed a Division Bench judgment of this Court passed in Civil Revision No.349 of 2003 in which it has been held that the maximum court fees leviable on succession petition for issuance of succession certificate is Rs.30,000/- but it appears



from the perusal of the order passed by the learned District Judge, West Champaran, Bettiah that the learned District Judge considered the case of Division Bench of this Court passed in Civil Revision No.349 of 2003 as judgment in persona but from perusal of the Division Bench judgment, it appears that the same is judgment in rem so far it relates to valuation of the succession petition and thus I find that the learned District Judge has committed jurisdictional error in not accepting the Division Bench judgment of this Court and directed the petitioner to deposit Rs.88,400/- as valuation of the petition.

Accordingly, the order dated 18.05.2018, passed in Successions Case No.09 of 2017 is set aside. The matter is remitted to the learned District Judge, West Champaran, Bettiah to pass order afresh in accordance with law in view of the Division Bench judgment of this Court passed in Civil Revision No.349 of 2003.

In the result, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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