

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.762 of 2014

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Ramraj Bind, son of Late Ram Surat Bind, resident of Village- Palka, P.S. -Bhabhua, District- Kaimur Bhabhua.

... .. Appellant/s

Versus

1. General People of Village Palka P.S. Bhabhua, District- Kaimur.
2. Budha Kuer, son of Late Shiv Murat Bind.
3. Ram Lal Bind, son of Late Shiv Murat Bind. Both residents of Village - Palka, P.S. - Bhabhua, District- Kaimur, Bhabhua.
4. Rekha Devi, w/o Anirudh Prasad, resident of Village- Dihra, P.S. - Bhabhua, District -Kaimur.
5. Lalmati Devi, w/o Hare ram, resident of Village- Baheria, P.S. - Chand, District- Kaimur.
- 6.1. Laxman Bind, Son of late Shiv Murat Bind, Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
- 6.2. Ranjan Kumari, D/o Laxman Bind, Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
- 6.3. Sunaina Kumari, D/o Laxman Bind, Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
- 6.4. Sunita Kumari, Minor D/o of Laxman Bind under the guardianship their father and Natural guardian Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
- 6.5. Gita Kumari, Minor D/o of Laxman Bind, under the guardianship their father and natural guardian. Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
- 6.6. Chhotu Sarkar, minor Son of Laxman Bind under the guardianship of his father and natural guardian Resident of village- Sijhua, P.S. Sonhan, District- Kaimur, Bhabua.
7. Mansa Devi, w/o Ramayan Bind, resident of Village - Betari, P.S. - Bhabhua, District- Kaimur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Suraj Narain Yadav, Adv.
For the Respondent/s : Mr. Pancha Nand Pandit, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-06-2019

Heard the parties.



2. This appeal has been filed for setting aside the judgment and order dated 29.08.2014 passed by learned Ad hoc Additional District Judge-3rd, District -Kaimur, Bihar in Succession Case No. 15 of 2013/ Trial No. 05 of 2014 by which the learned court has dismissed the succession case filed by applicant/appellant.

3. Appellant filed succession Case No. 15/2013 under Section 372 of the Succession Act for declaring him as a successor of Late Ram Surat Singh son of Late Jagarnath Bind and for issuance of succession certificate.

4. Case of appellant is that Late Jagarnath Bind had two sons, namely, Shiv Murat Bind and Ram Surat Bind. Shiv Murat Bind had two sons Ram Lal Bind and Ram Raj Bind and four daughters Rekha Devi, Lalmati Devi, Rukmani Devi and Manti Devi. Ram Surat Bind was unmarried.

5. Appellant claimed to be adopted son of Late Ram Surat Singh and he was adopted at the age of 10 years and a Panchnama was prepared on 17.01.2002 regarding his adoption. Title Suit No. 144/2009 was filed in the court of Munsif, Bhabua for declaration that petitioner is adopted son of Late Ram Surat Bind which was decreed on compromise. Ram Surat Bind was Chaukidar and died on 25.11.2008 while in service



and appellant being his adopted son performed his last rites. Ram Surat Bind died in harness but he had not given the name of appellant as nominee which necessitated requirement of succession certificate for payment of pension, gratuity and other retiral dues amounting to Rs. 3 lacs.

6. After issuance of summons opposite party No. 2 and 3 to 7 appeared and filed their written statement and have supported case of appellant of being adopted son and successor of Late Ram Surat Bind.

7. On the basis of pleadings of parties, the trial court framed five issues for adjudication and its determination. Two witnesses were examined on behalf of appellant and six documentary evidences were also produced which have been marked as Exhibit-1 Panchnama, Exhibit-2 death certificate of Ram Surat Bind, Exhibit-3 dependant certificate issued by Circle Officer, Bhabua, Exhibit-4 Certificate granted by LIC, Exhibit-5 compromise decree of Title Suit No. 144/09, Exhibit-6 complete panchnama. Two witnesses have been examined on behalf of opposite party.

8. The trial court after considering the oral and documentary evidence has come to the conclusion that the claim of appellant that he is adopted son of Ram Surat Bind is not



established and dismissed his case for grant of succession certificate to withdraw the retiral dues of Late Ram Surat Bind who died in harness and without making any nomination in service record.

9. Appellant had filed application for grant of succession certificate to withdraw the retiral dues of Late Ram Surat Bind who died unmarried and the claim of appellant was based upon being adopted son of Late Ram Surat Bind which could not be proved by the appellant before the trial court.

10. Even assuming the appellant failed to establish that he is adopted son of Late Ram Surat Bind, whether, he was entitled for grant of succession certificate as a nephew of Late Ram Surat Bind or not. It is an admitted fact that Late Ram Surat Bind remain and died unmarried leaving behind his brother and nephews and nieces who succeeded to the properties of Late Ram Surat Bind by survivor-ship and were entitled to get succession certificate, as such refusal of the court below in granting succession certificate to the appellant cannot be countenanced and accordingly set aside. There was no impediment in granting succession certificate to the appellant when all other legal heirs and representatives who succeeded to the property of Late Ram Surat Bind as class II heirs, in absence



of any class I heir and all appeared before the court below and filed their no objection in granting succession certificate to the appellant, there was no reason not to grant succession certificate to the appellant, accordingly the judgment and order passed by the court below is set aside and court below is directed to grant succession certificate to the appellant to withdraw the retiral dues of Late Ram Surat Bind.

11. This miscellaneous appeal stands allowed.

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.07.2019
Transmission Date	N.A.

