

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.4 of 2019

1. Bindu Devi, Wife of Jitendra Tiwary
 2. Most. Sureshwari Wife of Late Birendra Tiwary
 3. Rajiv Ranjan Tiwary son of Late Birendra Tiwary
 4. Priya Ranjan Tiwary Son of Jitendra Tiwary
- All are Residents of Village- Dhodhi, P.S. Sonhan, Distt. Kaimur

... .. Petitioner/s

Versus

1. Asit Kumar Pandey, Son of Siyaram Pandey Resident of Village- Jigina, P.s. Mohania, Distt. Kaimur Bhabua, At present residing at Bhabua Ward No. 1 Old, new Ward No. 7, P.S. Bhabua, Distt. Kaimur.
2. Ramakant Tiwary
3. Vijay Shankar Tiwary
4. Laxmi Tiwary
All are Sons of Late Sheo Kumar Tiwary All residents of Village Rampur, P.s. Sohan, Distt. Kaimur Bhabua.
5. Kamla Kant Tiwary Son of Late Suraj Tiwary Residents of Village Rampur, P.o. Miriyan, P.s. Sohan, Distt. Kaimur Bhabua, at present posted as District Forest Officer, Dodarama Jharkhand

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nawnit Kumar Tiwary
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 20-01-2020 It is stated at the bar that petitioner no. 2, namely, Most. Sureshwari, has since expired and her legal heirs are already on record, as such name of the said petitioner no. 2 is directed to be deleted from the array of the parties.

Registry to make necessary correction in the name of the parties. Registrar Judicial shall ensure compliance.

Petitioners have prayed for the following reliefs:



“For setting aside the order dated 07.08.2018 passed in Probate Case No. 21 of 2010 by learned Additional District Judge, Kaimur at Bhabua (Annexure-8) rejecting the review petition dated 30.01.2017 filed by the petitioners (Annexure-6) and affirming the order dated 21.01.2013 (Annexure-4) passed by the learned Additional District Judge-2, Kaimur at Bhabua in the said Probate Case No. 21 of 2010 and/or for granting any other relief or reliefs for which the petitioners may be deemed entitled to.”

Having heard learned counsel for the petitioners, this Court does not find any reason sufficient enough to interfere with the impugned order dated 07.08.2018, for it cannot be said that the same is, perverse or in any manner erroneous or illegal.

It is seen that in a probate proceeding, petitioners want to set up a title on the strength of voter list, rent receipts etc. Be that as it may, proceedings in the probate suit were instituted in the year 2010 and one order passed by the trial court, dated 21st January, 2013, assailed by the petitioners before this Court by way CWJC No. 3710 of 2013 & one analogous case, was permitted to be withdrawn vide order dated 23.12.2016.

Thereafter petitioners filed a review petition beyond the period of 30 days, annexing an application, seeking condonation of delay, which stands dismissed by the trial court for want of sufficient explanation.



The Court is of the considered view that reasons assigned by the trial court for rejecting the application are based on correct and complete appreciation of materials on record and the findings, for the delay, as has been held by the trial court, cannot be said to have been sufficiently explained.

The trial court found the petitioners to have been delaying the proceedings on one count or the other and rightly so. It appears that the endeavour is to procrastinate the proceedings and not allow the court to conclude the matter at the earliest.

As such the present petition, in terms of the order passed by the trial court, stands dismissed.

(Sanjay Karol, CJ)

sujit/-

U			
---	--	--	--

