

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.50 of 2019

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Devendra Singh @ Devendra Prasad Singh Son of Late Shyam Bihari Mahto
R/o Village-Daniyawar, P.S.-Daniyawar, District-Patna... .. Petitioner/s
Versus

1. Neelu Rani Wife of Anand Prabhat R/o at C/o Permanand Singh Mohalla
Nahar Road, Saidpur (Shishukunj), P.S. Kadamkuan, District-Patna
2. Smt. Urmila Devi W/o Indua Bhushan Prasad Suman R/o at Sector 3,
Quarter NOCD-137, P.O. Dhuba, Ranchi
3. Smt. Radhika Devi Wife of Bijendra Singh @ Bhushan Singh @ Gandhi Jee
R/o Village Chotti Ghoshi, P.O. Daha Bigha, Bhaya Hilsa, District-Nalanda
... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rabindra Prasad Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 26-02-2020 This civil revision application has been filed seeking quashing of an order dated 19.07.2018 passed in Title Partition Suit no.419 of 2015 by the learned Sub Judge VI, Patna City, whereby he has rejected a petition filed under Order VII, Rule 11 of the Civil Procedure Code by the petitioner for rejection of the plaint. The civil revision application is barred by limitation and for condoning delay of 152 days, an application, registered as I.A. no.1 of 2019, has been filed.

2. Considering the facts and circumstances, for the reasons assigned in the application for condonation of delay, delay is condoned. I.A. no.1 of 2019 is allowed.



3. I have heard learned counsel appearing on behalf of the petitioner at length. The said Partition Suit has been filed by the respondent no. 1 seeking partition in the joint family claiming $\frac{1}{4}$ th share in her favour out of the joint family property.

3. Learned counsel appearing on behalf of the petitioner has argued that the plaintiff is not entitled to any share and she could not have maintained the said Partition Suit. He has relied on Section 6 (3) of the Hindu Succession Act, 1956 as amended by Act no. 39 of 2005 to contend that the right conferred on a daughter as coparcener is from the commencement of the Hindu Succession (Amendment) Act, 2005.

4. In my view, learned counsel appearing on behalf of the petitioner has failed to satisfy the Court that the suit is barred by any law and that there was absolutely no cause of action for the plaintiff to have filed the suit for partition. The point, which the petitioner is taking in the present writ application, can be thrashed at appropriate stage before the Court below.

5. I do not find any illegality in the impugned order, whereby the petitioner's application under Order VII, Rule 11 of Civil Procedure Code has been rejected.



6. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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