

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.765 of 2017

=====

Rabi Prakash Sah son of Late Shyam Sundar Sah, resident of village-
Jagdishpur, P.S.- Jagdishpur District- Bhagalpur.

... .. Petitioner/s

Versus

1. Prabhash Chandra Sah and Anr Son of Late Ram Chandra Prasad, resident of Mohalla- Bitwan Bazar, P.S. Munger, District Munger.
2. Shambhu Prasad Sah, Son of Late Lal Mohan Sah, resident of Village- Jagdishpur, P.S.- Jagdishpur, District- Bhagalpur at present at Mirzanhat Road, P.S.- Mojahidpur, P.O.- Jagdishpur, District- Bhagalpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vivekanand Vivek, Advocate
For the Respondent/s :

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 24-02-2020

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present petition has been filed *“for quashing the order date 07.02.2017 contained in Annexure-4 of the application passed by the learned Sub Judge I, Bhagalpur in Probate Case No. 34 of 2012 whereby and whereunder petition of the petitioner filed under Order I Rule 10(2) of Civil Procedure Code was rejected or to issue any other appropriate writ/writs/order/order/direction/directions to which the petitioner is entitled in accordance with law.”*

3. At the very outset, this Court takes note of the averments made in I.A. No. 2 of 2019 to the effect that judgment has already been passed on 20.07.2017 in Probate Case No. 34 of 2012 by the learned Sub Judge-Ist-cum-Special Judge, Bhagalpur.

4. Learned counsel for the petitioner submits that this aspect of the matter was not brought to the notice of the Court by



either party at the time of passing of the order dated 25.07.2017 by which, *inter alia*, further proceeding in the said probate case was directed to remain stayed. Further, it is stated on behalf of the petitioner that the final judgment dated 20.07.2017 has already been made subject matter of First Appeal No. 236 of 2019 which is said to be pending before a co-ordinate Bench of this Court.

5. In the above view of the matter and having regard to the admitted position that Probate Case No. 34 of 2012 has already concluded against which first appeal is pending before this Court, the present petition has now become infructuous and accordingly stands dismissed.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2020
Transmission Date	NA

