

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.603 of 2018

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Shailesh Kumar son of Late Mohan Prasad Resident of Mohalla - Kalibag,
Ward No. 11, Post Office - Bettiah Town, Police Station - Bettiah Town,
District - West Champaran.

... .. Petitioner/s

Versus

1. Malti Devi wife of Late Mohan Prasad
2. Vikash Kumar son of Late Mohan Prasad Both are residents of Mohalla -
Nehru Nagar, House No, 604, Road No. 06, Police Station - Patliputra,
District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 24-08-2022 Heard learned counsel for the petitioner.

2. Contention of the petitioner is that the learned
court below has refused to review its order dated 04.11.2016
passed in Succession Case No. 10/2012 by the order impugned
dated 01.07.2017.

3. Learned counsel for the petitioner submits that the
petitioner is the son of the deceased employee who was working
as a clerk in the Bihar State Road Transport Corporation. He
further submits that the father of the petitioner i.e., deceased had
performed two marriages and the petitioner is the son from the
second marriage of the deceased employee and from the first
marriage one son and a widow, Malti Devi are surviving who



were made parties in the Succession Case No. 10/2012. He next submits that in the succession case the step mother as well as step brother of the petitioner did not appear and accordingly, the succession case was allowed *vide* order dated 04.11.2016 in which the petitioner has been declared as successor of the deceased employee, namely, Mohan Prasad and further, it has been held that the petitioner is entitled for 1/3rd share with respect to the properties as detailed in Schedule-1 of the plaint.

4. Learned counsel next submits that in the aforesaid background, he filed a review application with a plea that since no other heirs of deceased employee participated in the proceeding regarding succession, as such, the order dated 04.11.2016 be reviewed and that it be held that the petitioner is entitled for 100 *per cent* share with respect to the properties detailed in Schedule-1 of the plaint.

5. Learned court below has rejected the prayer of the petitioner for review holding that the petitioner is only entitled for 1/3rd share of the Schedule-1 property and not the entire share in the property.

6. I have heard learned counsel for the petitioner and perused the impugned order. From perusal of the order dated 04.11.2016, it appears that petitioner himself has come out with



the case that he is the shareholder of the schedule-1 property being the son from the second wife of the deceased employee and as per submission of the petitioner, he was declared as successor and 1/3rd share was allowed. From review application, it appears that the petitioner has not made out a case that order under review was passed on account of some mistake or there is apparent error on the face of the records. Accordingly, I am of the view that the court below has rightly rejected the petition filed by the petitioner for review. As such, I do not find any cogent reason to interfere with the impugned order. The petition stands rejected.

(Anil Kumar Sinha, J)

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