

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.821 of 2018

1. Sri Ram Vinod Chaudhary
2. Sri Subodh Chaudhary,
3. Vijay Chaudhary, All Sons of Late Govind Chaudhary, resident of Village-Kharauna Jairam, Police Station- Kurhani, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. Uday Choudhary and Ors son of Late Bishundeo Choudhary.
2. Sheobalak Chaudhary son of Late Nirsu Chaudhary.
3. Ambika Chaudhary.
4. Chandrika Chaudhary.
5. Mundrika Chaudhary. All sons of Sheo Balak Chaudhary.
6. Nagendra Chaudhary.
7. Madan Mohan Chaudhary, son of Ambika Chaudhary.
8. Arun Kumar Chaudhary son of Chandrika Choudhary.
9. Ram Umid Chaudhary, son of Wakil Choudhary. All residents of Village-Chaudhary, resident of Village- Kharauna Jairam, P.S.- Kurhani, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Girjanand Prasad
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-08-2022 The petitioner is aggrieved by the order dated 13.03.2018 passed in Title Appeal No. 41 of 1982 by Additional District Judge cum Fast Track Court -I, Muzaffarpur by which certain documents have been accepted by learned lower appellate court filed by the respondent no. 1 / Uday Choudhary in a proceeding initiated under Order 22 Rule 5 of the CPC.

Learned counsel for the petitioner submits that



respondent no. 1 is not a natural son of Govind Chaudhary, whose natural sons are already the appellants before the lower appellate court however, respondent no. 1 had earlier filed a petition in Title Appeal No. 41 / 1982 for substituting his name in place of appellant no. 6 / Sumitra Devi on account of her death and the same was rejected by this court. He next submits that the respondent no. 1 being adopted son of Late Bishundeo Choudhary is not entitled to represent the estate of late Sumtira Devi.

I have heard learned counsel for the petitioner and have perused the material on record including the impugned order. From Annexure – 1 which is an order passed in C.W.J.C. No. 11035 / 2011 dated 02.03.2016 it appears that prayer of the respondent no. 1 for substitution was rejected earlier and the respondent no. 1 preferred writ petition against that rejection and this court vide the aforesaid order dated 02.03.2016 came to the finding that disputed question has arisen as to whether the petitioner could be recognized as a legal heir of appellant no. 6 – Sumitra Devi or not. Accordingly, this court arrived at the conclusion that whenever such question arises, in terms of order XXII Rule- 5 of the CPC, the court has ample power to determine the question of legal representative. From the



impugned order it appears that in order to decide the dispute regarding respondent no. -1 being legal representation of the appellant no. – 6 or not under Order 22 Rule 5 of the CPC the lower appellate court has accepted certain documents filed by respondent no.-1 as exhibits.

In view of the aforesaid , I do not find any infirmity in the impugned order.

Accordingly, this civil miscellaneous application is dismissed.

(Anil Kumar Sinha, J)

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