

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1336 of 2018

1. Most. Kanti Devi w/o Late Ram Ratan Sah.
2. Sarasawati Devi.
3. Savita Devi Both D/o Late Ram Ratan Sah.
4. Virendra Sah.
5. Tuntun Sah Both S/o Late Ram Ratan Sah, All resident of Village- Gurchurwa, PO and PS Majhauria, District West Champaran.

... .. Petitioner/s

Versus

1. Babulal Sah
2. Moti Lal Sah.
3. Sona Lal Sah.
4. Ram Vilash Sah all s/o late Nagina Sah All resident of Village- Gurchurwa, PO and PS Majhauria, District West Champaran.
5. Vinod Prasad s/o Ganesh Prasad, resident of Village- Gurchurwa, PO and PS Majhauria, District West Champaran.
6. Gajendra s/o Ram Ratan Sah, resident of Village- Gurchurwa, PO and PS Majhauria, District West Champaran.
7. Manir Ahamad.
8. Rafiq Ahamad Both s/o Md. Saqir, All resident of Village- Gurchurwa, PO and PS Majhauria, District West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate
For the Respondent/s : Mr. Naresh Chandra Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

13 22-08-2023

Heard learned counsel for the parties.

2. This Civil Miscellaneous Application has been filed
under Article 227 of the Constitution of India against the order
dated 27.04.2018 passed by the learned Additional Munsif, West



Champaran (Bettiah) in Title Suit No. 267 of 1997 whereby and whereunder the learned Court below has rejected the petition of the petitioners filed under Order 1 Rule 10 of Code of Civil Procedure Code.

2. The brief facts of the case are that plaintiffs / respondents 1st set filed Title Suit bearing Title Suit No. 267 of 1994 for declaration of right, title and for recovery of possession. The sole defendant appeared and contested the suit by filing the written statement. The issues were framed and the trial started. During the pendency of the suit sole defendant died who was issueless and in his place his sister, namely, Radhika Devi was added as party in the suit. Radhika Devi also died during the pendency of the suit and in her place the person in whose favour the gift was executed were made party defendants. The petitioners filed a petition under Order 1 Rule 10 CPC stating that petitioners are step sons and daughter of Radhika Devi and they are nearest heirs. They are the heirs of Radhika Devi in view of Section 15(1) of the Hindu Succession Act, 1956 and they are the necessary party.

3. On the other hand, learned counsel for the respondents submits that the petition of the petitioners is misconceived. Admittedly, the property in question was



inherited by Radhika Devi from her Naihar property and as per Clause 2 of Section 15 of Hindu Succession Act, 1956 any property inherited by a female Hindu from her father or mother shall devolve in the absence of any son or daughter of the deceased (including children of any predeceased son or daughter) not upon other heirs referred to in sub-section 1 in the order specified therein but upon the heirs of the father. Learned counsel for the respondents further submits that since petitioners are not legal heirs with respect to the property inherited by Radhika Devi and the learned Court below has rightly dismissed the impleadment application of the petitioners which requires no interference by this Court.

4. Having heard the learned counsel for the parties and on perusal of impugned order, it appears that the transferee of the property in question has already been impleaded as party defendant and the said property is Naihar property of late Radhika Devi accordingly the same shall not devolve upon the petitioners and petitioners are neither necessary party nor proper party so, the learned court below has rightly rejected the prayer of petitioners to implead them as party in the suit. There is no valid ground to interfere in the impugned order and the application is devoid of merit and liable to be dismissed.



5. This Civil Miscellaneous Application is,
accordingly, dismissed.

(Sunil Dutta Mishra, J)

saaurabhkr/-

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