

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.103 of 2023
In
Civil Writ Jurisdiction Case No.14420 of 2010

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Hemraj Yadav

... .. Petitioner/s

Versus

Sahodari Devi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 06-10-2023 Ms. Sushmita Mishra, learned counsel appearing on behalf of the petitioner.

2. The petitioner presses the present petition, seeking modification of the order dated 08.08.2018 passed by a bench of this Court in C.W.J.C. No. 14420 of 2010, to the extent whereby it has been inadvertently typed as Mahabir Mistri in place of Anand Mistri to be impleaded as a defendant to the suit bearing Title Suit No. 92 of 2022, pending in the Court of Additional Munsif-II, Sherghati, Gaya.

3. It is submitted on behalf of the petitioner that the aforesaid writ petition was filed for setting aside the order dated 27.10.2010 passed by learned Additional Munsif-II, Sherghati Gaya in Title Suit No. 92 of 2022, whereby the petition dated 30.08.2007, filed by the plaintiff/petitioner to implead Anand Mistri son of Khatiyani Raiyat Mahabir Mistri under Order 1 Rule



10 of the Code of Civil Procedure was disallowed.

4. The aforesaid writ petition was heard at length on 06.08.2018, and the order was reserved. Since, it was not dictated in the open court and was pronounced on 08.08.2018, it could not be pointed out that Mahabir Mistri had died even before 2007, and his son and legal representative is Anand Mistri. The petition dated 30.08.2007, filed by the plaintiff/petitioner also speaks about impleadment of Anand Mistri as defendant in this suit.

5. The connected record of the writ petition also suggesting that Mahabir Mistri has already died before 2007, leaving behind his son Anand Mistri, who is the necessary party.

6. In view of the materials available on record, and the submissions advanced on behalf of the petitioner, the order dated 08.08.2018 passed in C.W.J.C. No. 14220 of 2010, is modified to the extent prayer has been made and thus the name of Mahabir Mistri be read as Anand Mistri in paragraph nos. 6 & 7 of the order dated 08.08.2018.

7. Accordingly, the present modification application stands allowed.

(Harish Kumar, J)

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