

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1484 of 2018**

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Nikhil @ Nikhil Kumar Son of Kuwar Singh, Resident of Village and
P.O.Sadiha, P.S. Bhagwanpur Hat, District-Siwan.

... .. Petitioner/s

Versus

Pradeep Kumar Son of Nagayan Singh @ Nagoo Singh, Resident of Village-
Sadihan, P.S. Bhagwanpur Hat, District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey
For the Respondent/s : Mr. Sanjay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

10 29-08-2023 Heard learned counsel for the petitioner and learned
counsel for the respondent.

2. This petition has been filed against the order dated
03.08.2018 passed by learned Munsif-II, Siwan in Title Suit No.
17 of 2010 (Ram Narayan Singh Vs. Nikhil Kumar) by which
the Munsif has directed for substituting the respondent in place
of the deceased plaintiff who had adopted the petitioner as his
son.

3. The deceased plaintiff who was father of the
petitioner had filed a suit declaring the adoption deed to be
forged and fabricated and has not been executed by the plaintiff
and the defendant is not the adopted son of the deceased
plaintiff.

4. During pendency of the Suit the plaintiff Ram



Narayan Singh died and thereafter the opposite party Pradeep Kumar had filed an application for substitution in place of the plaintiff claiming himself to be a near relative of the plaintiff Ram Narayan Singh.

5. It was contended by the respondent that the plaintiff, in his lifetime has executed two sale deeds in favour of the respondent Pradeep Kumar and therefore he should be substituted in place of the plaintiff under Order 22 Rule III of the C.P.C.

6. Learned counsel for the petitioner has submitted that the petitioner is not the relative or legal representative of the deceased plaintiff and therefore he cannot be substituted in place of deceased plaintiff and the impugned order is illegal.

7. Learned counsel for the petitioner further submits that after the death of the plaintiff the petitioner being his adopted son is the legal representative and therefore the deceased cannot be substituted with the respondent only because the fact that the deceased plaintiff has executed two sale deeds in favour of the respondent.

8. Learned counsel for the respondent has supported the impugned order and has submitted that respondent has rightly been substituted in place of the deceased plaintiff.



9. I have heard and considered the submission of both the parties.

10. In my opinion, the impugned order is illegal and cannot be sustained. Moreover, when the adoption deed was under challenge the suit has abated.

11. In view of the above, this application is allowed and the impugned order dated 03.08.2018 passed by learned Munsif-II, Siwan in Title Suit No. 17 of 2010 is hereby set aside.

12. The respondent has liberty to challenge the adoption deed in a separate suit.

(Sandeep Kumar, J)

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