

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1426 of 2017

1. Ashok Giri @ Ashok Kumar Giri
2. Upendra Giri
3. Birendra Giri
4. Narendra Giri, All sons of Pashupati Giri
5. Chandra Bhushan Giri, son of Birendra Giri, All are resident of Village- Chandpur, P.O.- Gamharia, P.S.- Pachrukhi, District- Siwan.

... .. Petitioner/s

Versus

1. Most. Phoolmati Kunwar, wife of Baldeo Giri, resident of Village- Chandpur, P.O.- Gamharia, P.S.- Pachrukhi, District- Siwan.
2. Adalat Giri, son of Sheetal Giri, resident of Village- Chandpur, P.O.- Gamharia, P.S.- Pachrukhi, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Bardhan Pandey, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 03-12-2024

Heard learned counsel for the petitioners and I intend to dispose of the instant petition at the stage of admission itself.

2. The petitioners are aggrieved by the order dated 26.04.2017 passed by the learned Additional District Judge-III, Siwan in Probate Case No.13 of 2012 whereby and whereunder the learned Additional District Judge-III allowed the petition of the respondent no. 2 for adding him as party defendant no. 2 in Probate Case No. 13 of 2012.

3. The learned counsel for the petitioners submits that the respondent no. 2 has got no *locus standi* to intervene in the



probate case filed by the petitioners. The respondent no. 2 has been claiming that he is the son of one Sheetal Giri, but the same is not correct. Sheetal Giri has only one son, Baldeo Giri, who has executed the Will in favour of the petitioners and the petitioners have filed Probate Case No. 13 of 2012 for probate of the said Will of Baldeo Giri. The respondent no. 2 is a stranger to the probate proceeding. Already the wife of Baldeo Giri has been made party as respondent no. 1. The documents produced by the respondent no. 2 to show his connection with Baldeo Giri are not genuine documents. These documents have been forged and fabricated by the respondent no. 2 after deliberation and, for this reason, he waited for three years after filing of the probate case.

4. Perused the record.

5. Perusal of the impugned order shows certain documents were produced before the learned trial court showing connection of the respondent no. 2 with testator of the Will for which probate has been sought.

6. The Hon'ble Supreme Court in the case of *Sumtibai v. Paras Finance Co. Regd. Partnership Firm Beawer (Raj.)*, reported in (2007) 10 SCC 82, has held that a party having a semblance of interest in the suit property could



be impleaded as a party in the suit.

7. In the present case, if the respondent no. 2 claims himself to be the brother of the testator, his interest in the proceeding could not be denied. Moreover, general citations are issued in the probate cases which is notice to the whole world and any person having interest in the subject matter could get himself impleaded in the probate proceeding.

8. In view of the aforesaid discussion as well as law laid down by the Hon’ble Supreme Court, I do not find the impugned order suffers from any infirmity as the same has been passed after consideration of all the aspects of the matter and, therefore, the same is affirmed.

9. Hence, I do not find any merit in the instant petition and, accordingly, the same is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2024
Transmission Date	

