

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.789 of 2024

1. Shailendra Kumar Soni Son of Late Ramdhani Prasad @ Ramdhani Prasad Soni @ Ramdhni Prasad Resident of Mauza-Chhawani, Near Idgah Bettiah, P.O.- Bettiah, P.S.- Manuapul, District- West Champaran.
2. Shivendra Kumar Soni, Son of Late Ramdhani Prasad @ Ramdhani Pd. Soni @ Ramdhni Prasad Resident of Mauza-Chhawani, Near Idgah Bettiah, P.O.- Bettiah, P.S.- Manuapul, District- West Champaran.
3. Seema Kumari, Wife of Chandeshwar Kumar, Daughter of Late Ramdhani Prasad @ Ramdhani Prasad Soni, Resident of Village and P.O. and P.S. - Ramgarhawa, District- East Champaran.
4. Sudha Kumari @ Soni, Wife of Sri Sunil Kumar, Daughter of Late Ramdhani Prasad @ Ramdhani Soni, Resident of Village- Mauza-Chhawani, Near Idgah, Bettiah, P.O.- Bettiah, P.S.- Manwapul, District- West Champaran.

... .. Petitioner/s

Versus

Sita Devi @ Ritu Wife of Late Ramdhani Prasad @ Ramdhani Prasad Soni, Resident of Village- Mauza-Chhawani, Near Idgah, Bettiah, P.O.- Bettiah, P.S.- Bettiah, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ramchandra Sahni, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 07-04-2025

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

2. Petitioners are aggrieved by the order dated 08.04.2024 passed by learned Additional District & Sessions Judge, 8th, Bettiah, West Champaran in Probate Case No. 31 of 2022 whereby and whereunder the amendment petition dated 06.12.2023 filed by the petitioners who are opposite parties in the probate proceeding filed under Order 6 Rule 17 of the Code



of Civil Procedure (in short “the Code”) has been rejected.

3. Learned counsel for the petitioners submits that the respondent has filed Probate Case No. 31 of 2022 under Section 276 of the Indian Succession Act, 1925 in the Court of learned District Judge, Bettiah on 02.06.2022 for grant of probate of Will of testator Ramdhani Prasad in her favour. The petitioners are sons and daughters of Ramdhani Prasad, respectively who appeared and filed their objection. During pendency of the probate case, the opposite party/petitioners filed an amendment application seeking amendment in paragraph 13 of their written statement but the said written statement was rejected by the learned trial court and the same is under challenge before this Court.

4. Learned counsel for the petitioners submits that the learned trial court rejected the prayer for amendment mainly on the ground that evidence of one witness has been recorded and that if the amendment petition was allowed, there would be some change in the nature of the suit which would cause irreparable loss to the petitioners. Learned counsel further submits that the petitioners want to bring on record only the fact that the petitioners took the testator for his treatment to the Medical College, Bettiah and from there he was referred to



Indira Gandhi Institute of Cardiology, Patna and thereafter he was referred to AIIMS, Delhi. Further the testator was brought to his house at Bettiah on 13.11.2021 and on 14.11.2021 he suffered heart attack and went into COMA and died on 17.11.2021. Learned counsel further submits that the amendment would not change the nature of the suit. Thus, learned counsel submits that the impugned order is not proper and correct and hence, the same be set aside.

5. Perused the record.

6. From perusal of record in specific paragraph 13 of the written statement filed before the learned trial court, it reflects the petitioners have denied the claim of the plaintiff/petitioners/respondents that Ramdhani Prasad fell seriously ill in September, 2021 and lost physical and mental control over the body and finally he died on 17.11.2021. This chronology of events has been denied by the petitioners who further stated that Ramdhani Prasad never fell ill seriously and never lost his physical and mental faculties. It has further been submitted by the defendants/petitioners that Ramdhani Prasad was quite hale and hearty till the time of his death. Now the petitioners want to bring on record the facts about illness of Ramdhani Prasad, the testator suffering heart attack and being



referred to the Indira Gandhi Institute of Cardiology, Patna and thereafter, to AIIMS, Delhi whereas the petitioners have made an admission that the testator was never ill from September, 2021 till his death and he was in control of his physical and mental faculties and his physical and mental condition never deteriorated and also that Ramdhani Prasad was physically and mentally fit till the date of his death. The petitioners could not be allowed to withdraw their admission. No doubt the courts are liberal in allowing the amendment but the specific admission made by any of the parties could not be allowed to be withdrawn. The petitioners are in fact trying to withdraw the admission made by them. For the aforesaid reasons, I do not find any infirmity in the impugned order dated 08.04.2024 and hence, the same is affirmed.

7. Accordingly, the present petition stands dismissed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.04.2025
Transmission Date	N/A

