IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No. 537 of 2024

1. Smt. Ramdulari Devi, W/o Sudeshwar Sah
2. Satya Prakash Sah, S/o Bihari Sao
3. Jai Prakash Sah, S/o Bihari Sao
   All R/o Village and P.O. Chapari, P.S. Bhawathpur, Dist.-Garhwa, Jharkhand

.... Petitioners

Versus

1. Lakshmi Naraan Sah
2. Gauri Sah
   Both S/o Late Ishwar Sah, R/o Vill + P.O. Chapari, P.S. Bhawathpur, Dist.-Garhwa
3. The Deputy Collector, Garhwa, at Garhwa, P.O. & P.S. & District-Garhwa, Jharkhand
4. Samjira Devi, W/o Ashok Kumar Gupta
5. Manjira Devi, W/o Dewbansh Kumar Gupta
   Both R/o Vill.+ P.O. Belpahari, P.S. Bhawathpur, Dist. Garhwa

… …. Opposite Parties

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioners	: Mr. Shailendra Kumar Tiwari, Advocate Ms. Tanu Kumari, Advocate
For the State	: Mr. Aditya Raman, Advocate
For the O.P. No.2	: Mr. Awadhesh Pandey, Advocate
For the O.P. No. 4&5	: Ms. Divya Prakash, Advocate

Order No. 09 / Dated : 23.12.2025.

1. The instant civil miscellaneous petition has been filed for setting aside the order dated 05.02.2024 passed in L.A. Case No. 01/2016, whereby and whereunder, the petition filed under Order 1 Rule 10 (2) of the CPC in L.A. Case No. 01/2016 has been rejected.
2. Letter of Administration Case No. 01/2016 was filed by opposite party nos. 1 and 2 for grant of letter of administration with respect to the unregistered deed of WILL executed on 10.05.1989 by Ishwar Sah. The testator died as per the statement made in para-15 of the application for letter of administration on 18.04.2006 and the application for letter of administration has been filed after ten years i.e., in 2016 by the both sons of late Ishwar Sah.
3. It is submitted by learned counsel on behalf of the petitioners that the application for letter of administration is riddled with contradictory averments. In para-5, it is stated that it was late Ishwar Sah who executed the

WILL, but in para-8, it is stated that Motichand Sah died on 18.04.2006 and further stated in para-15 that the testator died on 18.04.2006. It is not clear if Ishwar Sah was the testator or Motichand Sah.

4. It is argued by the learned counsel for the petitioners that the application for grant of letter of administration has been filed after ten years of the death of the testator and is, consequently, barred by limitation. It is further submitted that the purported testator of the WILL is Motichand Sah and the land has already been transferred by his daughters, namely, Sanjira Devi and Manjira Devi before filing of letter of administration case by registered sale deed in favour of Ashok Kumar Gupta and Deobansh Kumar Gupta and the petitioners have purchased the said land from Ashok Kumar Gupta and Deobansh Kumar Gupta on 03.10.2020.
5. It is argued by learned counsel on behalf of the petitioners that they have substantial interest in the letter of administration case, which is collusive in nature, and no defence that the suit being barred by limitation is being raised by the defendants. It is, therefore, pleaded that the petitioners may be permitted to be made a party so that the matter could be factually heard and decided. Applicants of the suit has already filed Original Suit No. 89 of 2021 in which the petitioners have been impleaded as parties. Only from the plaint of the said suit, the petitioners could know about the pendency of the letter of administration case.
6. It is argued by learned counsel on behalf of the opposite parties that the issue of title can be decided in the original title suit and the present letter of administration is only limited to the issue of due execution of the WILL.
7. Having considered the submissions advanced on behalf of both sides, the matter for consideration is whether the petitioners, who have substantial interest in the schedule property which they had acquired by way of sale deed, have any interest to contest the letter of administration case or not?
8. From the submissions advanced and the materials on record, I find merit in the plea on behalf of the Petitioners that although issue of title is beyond the ken of consideration by a court hearing testamentary suit, yet impleadment of a party having substantial caveatbale interest in the subject matter of the property, when the suit itself appears to be time barred cannot be denied. This is more so for the reason that grant of probate and letter of administration decides right in *rem* and not merely right in *personam.*

9. Impugned Order is accordingly set aside.

Civil Miscellaneous Petition is allowed.

Pending I.A., if any, stands disposed of.

(Gautam Kumar Choudhary, J.)

Pawan/ -
Uploaded
23.12.2025