

In the Court of Sub Judge-III, Benipur

Present:- Pranav Kumar Bharti

09/03/2021

Partition Suit No.-20 of 2005, Registration No.-917/14

Akbali Jha & others vs. Tarakant Jha & Others

24-02-2021

Case is called out and record is produced before me. Plaintiff is in attendance while a representation petition is filed on behalf of the Defendants. Perused the case record. On perusal of the case record, it appears to the court that today this case has been fixed for order on petition dated- 09.10.2020 on behalf of the plaintiff U/O-XXII, Rule-3 of the Civil Procedure Code, 1908 herein after referred as the C.P.C. In this petition, it has been submitted that the plaintiff no.-1 Akbali Jha died on 29.04.2020 during pendency of the suit leaving behind a widow, plaintiff No.-2 and three above named sons. It is further submitted that one of the legal heirs of Akbali Jha is already on record, hence there is no question of abatement. It has been submitted that due to Covid-19 and lock-down, the present petition has not been filed within time hence it is essential to condone the delay, if any in filing the present petition. Therefore, it is prayed that legal heirs of the deceased Plaintiff No.-1 named in the petition may kindly be substituted in place of plaintiff no.-1 after condoning the delay.

No rejoinder of the petition dated- 09.10.2020 has been filed on behalf of the Defendant. Learned counsel of the defendant does not oppose the prayer of the plaintiff.

Heard both learned counsel of the plaintiff and defendant. On hearing and perusal of case record, it appears to the court that after filing of these petitions, no rejoinder has been filed on behalf of the defendant. As per the prayer made on behalf of the plaintiff, Plaintiff No.-1 namely Akbali Jha died on 29.04.2020, but petition for substitution of the legal heirs was not filed due to lock-down in prevailing global Covid-19, so delay in filing the substitution is condoned for the ends of justice.

Considering the facts and circumstances as discussed above, petition dated-09-10-2020 on behalf of the plaintiff is allowed in the interest of justice.

Continue.....

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Continued.....

Learned Counsel of the Plaintiff is directed to struck off the names of deceased Plaintiff No.-1 from title page of plaint and substitute the name of the legal heirs namely Pawan Kumar Jha, Arun Kumar Jha & Krishna Mohan jha, all s/o-Late Abkali Jha, the deceased Plaintiff No.-1. as named in the petition, in place of him in the plaint within fifteen days from today. Thus petitions dated-09.10.2020 on behalf of the plaintiff is disposed of as accordingly.

Fixing on 09-03-2021 for substitution of legal heirs.

Dictated

Sub Judge-III

24.2.21

Substituted vides orders
dt. 24.2.21.
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4/3/21