

In the court of Sub Judge-IV, Patna city
Title Partition Suit No. 165/16

Smt. Devpati Devi & ors.Plaintiff

Vs.

Smt. Kamla Devi & ors..... Defendant

Order

15.05.2019 A petition dated 13.3.2019 is filed by plaintiff under order 22 Rule 4 r/w section 151 of the C.P.C. A rejoinder to the said petition is filed by the defendant no. 2 to 4 on 22.04.2019. Heard both the parties on their petitions.

Learned counsel for the plaintiff submits that in presence of suit defendant no. 1 Kamla Devi had died on 09.10.2018 leaving behind her four daughters namely 1.Geeta Devi, 2.Manju Devi, 3.Manorma Devi and 4.Munni Devi who are defendant no. 2-5 of the presence suit. Since all the legal heirs of the deceased already on record and, therefore, now the name of the deceased is liable to delete from the cause title page of this plaint. Learned counsel for the defendant submits that the Kalyani Devi has died on 09.10.2018 and despite having full knowledge of the same the plaintiff has not taken any step regarding the same and now the suit stands abated against defendant no. 1 and petition filed by the plaintiff is barred u/s 120 of the Limitation Act.

After hearing both the parties and in the facts and circumstances of this case, this court finds that the petition is filed by the plaintiff only to delete the name of defendant no. 1 Kalyani Devi from cause title page and all the legal heirs are already on record hence, no substitution is prayed. Limitation does not runs against plaintiff as far as deletion of name is concerned. As there is no prayer of substitution. The petition is allowed and the O. C. is directed to delete the name of defendant no. 1 Kamla Devi from cause title page.

Put up on for further proceeding.

(Dictated)

Sub-Judge -1V