

Court of the addl. District judge, Vaishali, Hajipur
Probate Case No.-16/2008
Indu Devi Vs Ramsingar Singh & Others

ORDER

04-12-20

Pairvi has been filed on the behalf of the applicant as well as on behalf of the opposite parties to this case.

Record was put up before me for order on substitution petition dated 29-09-2020 filed on behalf of applicant to this case and its rejoinder dated 19-10-2020 filed on behalf of opposite party no. 03 to this case.

By way of petition applicant to this case has submitted that opposite party no. 01 Ramsingar Singh died on dated 07-06-2020 leaving behind his two sons and seven descendants of deceased two sons namely Vijay Kumar Singh and Ranjay Kumar Singh. It has been further submitted that Vijay Kumar Singh died behind his widow namely Shila Devi and one son namely Chiraga Singh and two daughters namely Sonam Kumari and Barsha Kumari. While son of late Ramsingar Singh namely Ranjay Kumar died leaving behind his widow Ranjana Devi and one son namely Kanhaiya Singh and one daughter namely Bhabna Kumari. It has been further submitted that all the heirs of deceased son of Ramsingar Singh as well as his alive sons are the legal heirs of deceased late Ramsingar Singh. So, for ends of justice the name name of O.P. No. 01 is to be deleted and in the place thereof the heirs named as stated above are to be substituted. Accordingly it has been submitted that instant substitution petition may be allowed.

While by its rejoinder dated 29-10-2020 O.P. no. 03 to this case has submitted that instant petition has been filed with wrong statements and the instant petition is time barred so this instant petition is not maintainable. It has been further submitted that O.P. No. 01 died on 07-06-2020 but instant petition was not filed within prescribed period. Hence, this suit has already been abated. It has been further submitted that on fixed date for this record court was not closed due to Covid-19 rather all the essential judicial work was being done. So, in such circumstances delay in filing in the substitution petition may not be condoned. Accordingly it has been submitted that instant application is not maintainable in any point of view but the same is fit to be dismissed.

While Id. Counsel for the applicant has submitted that in the light of observation made in Suo Motu Writ Petition (Civil) No.(s). 3/2020 IN RE by Hon'ble Apex Court this instant petition may be allowed in the interest of justice.

Per contra Id. Counsel for the opposite party no. 03 has submitted that instant substitution petition is hopelessly time

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barred, so petition is fit to be rejected.

Heard the both parties and perused the record. From perusal of the case record it is evident that O.P. No. 01 Ramsingar Singh died on dated 07-06-2020 living behind his legal heirs as mentioned at the foot of instant substitution petition. While instant substitution was filed on dated 29-09-2020. But it would be pertinent to mention here that in *Suo Motu Writ Petition (Civil) No.(s).3/2020 IN RE Hon'ble Apex Court* observed as "--- situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State) to obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings. So, in the light of observation made by Hon'ble Apex Court this instant substitution petition is found and held to be within the limitation of prescribed period as well as maintainable. Accordingly instant petition is hereby allowed and ordered that name of deceased O.P. No. 01 namely Ramsingar Singh be deleted from the title page of probate petition and at the place of late Ramsingar Singh the name of his legal heirs as mentioned at the foot instant substitution petition be substituted at the title page of probate petition. Put the record on dt. 15-12-2020 for filing of requisite of summons.

Typed & Corrected by me)

(Signed by me)

Asutosh Rai
A.D.J. XI
04-12-2020

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