

(2012) 09 PAT CK 0097
Patna High Court
Case No: CWJC No. 3903 of 2011

Ajit Kumar Singh @
Siya Ram Singh

APPELLANT

Vs

Smt. Kaushalya Devi
and Others

RESPONDENT

Date of Decision: Sept. 4, 2012

Judgement

@JUDGMENTTAG-ORDER

Shailesh Kumar Sinha, J.

Heard learned counsel for the petitioner. The petitioner is aggrieved by the order dated 17.1.2011 passed by the Munsif-I, Munger in Title Suit No. 10/09, whereby the legal representatives of defendant No. 3 were brought on the record as defendant No. 3 was already dead as on the date of filing of the suit.

2. It is submitted on behalf of the petitioner that as a matter of fact, defendant No. 3 had died long ago on 14th of January, 1987 before filing of the suit. It is submitted that the plaintiff could not validly say that he had no knowledge about the death of said defendant No. 3 as he happens to be his Purohit as well as the resident of the same village. Notwithstanding the above, it is submitted that in the suit the process server reported about the death of defendant No. 3 as per his report submitted on 10th of August, 2009. The plaintiff filed a petition for bringing on record the legal representatives of defendant No. 3 on 31st of August, 2010. It is submitted that such act of the defendant ought not to have been condoned. It is, however, submitted that the defendant 1st set has filed written statement. Considering the submissions and the nature of the suit, although the plaintiff ought to have filed the said application dated 31st of August, 2010 immediately on knowing the service report about the death of defendant No. 3, but considering the stage of the suit, in which no written statement has been filed on behalf of some of the parties, I am not inclined to interfere with the order. The writ application stands disposed of.