

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.198 of 2025

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Rahul Kumar Choudhary @ Rahul Kumar son of Sublendra Narayan Choudhary resident of Village Parora, P.S.- K. Nagar, District Purnea.

... .. Petitioner/s

Versus

1. Dr. Gyan Kumari Rai so called wife of Late Dr. Srikant Choudhary, resident of Village Ganeshpur, P.S. K.Nagar, District Purnea.
2. Vishal Chaudhary son of Late Dr. Srikant Choudhary resident of village Ganeshpur, P.S. K, Nagar, District Purnea, presently residing at Vipul Home Society, Sector-48, Gurugram, Haryana.
3. Ekta Chaudhary wife of late Dr. Srikant Choudhary resident of village Ganeshpur, P.S. K, Nagar, District Purnea, presently residing at Vipul Home Society, Sector-48, Gurugram, Haryana.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vaidehi Raman Pd. Singh, Advocate Mr. Adarsh, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-07-2025

The record taken up on mentioning being made on behalf of the petitioner.

2. Heard learned counsel for the petitioner and I intend to dispose of the instant petition at the stage of admission itself.

3. The petitioner is aggrieved by the order dated 13.10.2023 passed by the learned Sub Judge-1, Purnea in Money Execution Case No.10/2021 whereby and whereunder the application filed by the petitioner, who is judgment-debtor before the learned executing court, under Section 47 of the Code



of Civil Procedure (hereinafter referred to as 'the Code') has been rejected.

4. The learned counsel for the petitioner submits that the petitioner has challenged substitution of the respondent no.1 in place of deceased decree-holder on the ground that the respondent no.1 was not the wife of deceased decree-holder. The deceased decree-holder Dr. Srikant Choudhary was married with one Ekta Choudhary and she was legally wedded wife of the deceased decree-holder. But the respondent no.1 claimed herself to be wife on the basis of a document where the status of the deceased was written as a divorcee. However, no papers for divorce were produced. When the petitioner challenged the status of the respondent no.1, it was incumbent upon the learned executing court to inquire into the matter as the objection has been taken under Section 47 of the Code and every question arising out of an execution matter is to be decided by the same court. The learned executing court ought to have decided whether respondent no.1 was legal representative of decree-holder or not and this issue was not considered by the learned executing court.

5. Perused the record.

6. From perusal of record and the impugned order, I



find that the learned executing court proceeded in the matter on the basis of documents submitted by the respondent no.1. One such document is stated to be marriage certificate and in the said certificate, it was mentioned that the deceased decree-holder was a divorcee on the date of marriage. Further pension papers of the deceased decree-holder also attached showing that respondent no.1 was entitled to receive monthly pension in case of death of Dr. Srikant Choudhary, the decree-holder (deceased). When there is no other material produced by the petitioner to show that the respondent no.1 was not the wife of deceased decree-holder and the learned executing court proceeded in the matter having regard to the documents produced before it, there is hardly any occasion for this Court to interfere with such order. Moreover, when the respondent no.1 is beneficiary in pension papers of the deceased decree-holder, this clinches the issue in her favour.

7. In the light of discussion made here-in-above, I have no hesitation in holding that the learned executing court has not committed any illegality or irregularity and there appears no error of jurisdiction so as to interfere with the impugned order and hence, the impugned order dated 13.10.2023 passed by learned Sub Judge-1, Purnea in Money



Execution Case No.10/2021 is affirmed.

8. Finding no merit in the present petition, the same is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.07.2025
Transmission Date	NA

