

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.9957 of 2011**

Jitendra Ram
Versus
Sunaina Devi & Anr

02. 30.06.2011

Heard the learned counsel for the parties.

This writ application has been filed against the order dated 07.01.2011 passed by Sri M.K.Srivastava, Sub Judge IX, Gopalganj in Title Suit No.148 of 2004 whereby the learned Court below rejected the application filed by the present petitioner for being substituted as co-plaintiff no.2 on the death of the original plaintiff, Bikarma Ram.

Admittedly, the petitioner is the party in the suit as defendant no.2. The plaintiff, Bikarma Ram filed the suit for declaration that the petitioner is not his son. He died and on his death, his daughter, Sunaina Devi was substituted as sole plaintiff.

This application has been filed by the petitioner alleging that he is son of Bikarma Ram. Since this question itself is disputed by the original plaintiff who died, the learned Court below has rightly observed that the petitioner is already on record as defendant no.2, he cannot be allowed to be transposed as plaintiff. I find no reason to interfere with the impugned order. Accordingly, this writ application is dismissed.

Saurabh

(Mungeshwar Sahoo, J.)