

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.588 of 2025**

1. Sanjay Kumar Son of Late Ram Babu Rai and Late Smt. Kaushalya Devi, Resident of Road No. 6-D, P.O.- G.P.O., P.S.- Gardanibag, in the town and District of Patna.
2. Niraj Kumar Son of Late Ram Babu Rai and Late Smt. Kaushalya Devi, Resident of Road No. 6-D, P.O.- G.P.O., P.S.- Gardanibag, in the town and District of Patna.
3. Nitin Kumar Son of Late Ram Babu Rai and Late Smt. Kaushalya Devi, Resident of Road No. 6-D, P.O.- G.P.O., P.S.- Gardanibag, in the town and District of Patna.

... .. Petitioner/s

Versus

1. Supriya Shailja Wife of Late Rajnish Yadav, Daughter of Shyam Nandan Kumar Singh, Resident of Kaushlya Kunj, Gardanibag, Road No.6, P.S.- Gardanibag, in the Town and District of Patna. Currently residing at Mohalla- Jagat Narayan Road, P.S- Kadamkuwa, District- Patna.
2. Manish Rai Son of Late Ram Babu Rai and Late Smt. Kaushalya Devi, Resident of Road No. 6-D, P.O.- G.P.O., P.S.- Gardanibag, in the town and District of Patna.
3. The Estate of late Rajnish Yadav, represented through Manish Rai (Respondent no.2)

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. J.S. Arora, Sr. Adv.
For the Respondent/s : Mr. Raj Shekhar, Adv.

**CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT**

Date : 13-01-2026

Present civil misc. application has been preferred
on behalf of the petitioners for seeking following
relief(s) :-

(i) For setting aside the order dated
04.01.2025, passed by Civil Judge (Sr. Division),
VIII, Patna, in Succession Case No. 234 of 2017,
whereby the petition filed by the petitioners for



coming on the record of the aforesaid case, being the successor of Late Kaushalya Devi (O.P.) to pursue the objection filed by her in the aforesaid case, being her Class I heirs and legal successors, and thereby having interest in the estate of Late Rajneesh Yadav.

(ii) Also, for any other relief or reliefs for which the petitioner s are found entitled or as this Hon'ble Court deem fit and proper.

2. Heard both the parties.

3. Learned counsel for the petitioners submits that the respondent-petitioner instituted Succession Case No. 234 of 2017 seeking grant of a succession certificate in respect of the movable properties left by her deceased husband, Rajneesh Yadav, who was posted at Lucknow as Joint Commissioner in the Income Tax Department, claiming herself to be his legally wedded wife. It is further submitted that the applicant claims to be the sole legal heir entitled to receive G.P.F. and all other service-related dues from the concerned government departments, banks, and other government establishments, and since



the said authorities have insisted upon production of a succession certificate, the institution of the succession case became necessary. It is further submitted that during the pendency of the said succession case, the opposite party, namely Kaushalya Devi, expired on 28.12.2022. Thereafter, the proposed intervener, claiming to be the son and class I legal heir of Kaushalya Devi, filed an application on 01.05.2023 for impleadment in the succession case under Order XXII Rule 4 read with Section 151 of the CPC. The said application, however, was rejected by the learned trial court vide the impugned order dated 04.01.2025.

4. Learned counsel for the petitioners in the present Miscellaneous Case submits that the applicants of the petition dated 01.05.2023 are the sons of late Kaushalya Devi, who wants to be arrayed as an opposite party in the succession case, and that after the death of their mother because they are entitled to be impleaded in the said succession case in accordance with Order XXII



Rule 4 read with Section 151 of the CPC.

5. The general rules of succession in the case of males has been prescribed in Section 8 of Hindu Succession Act, 1956, which reads as follows:-

“ 8. **General rules of succession on the case of males** – The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter :-

(a), firstly, upon the heirs, being the relatives specified in class I of the Schedule;

(b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;

(c) thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased; and

(d) lastly, if there is no agnates, then upon the cognates of the deceased.”

Orders of succession among heirs in the schedule has been mentioned in section 9 of Hindu Succession Act, 1956 and distribution of property among heirs in Class I



of the schedule has been mentioned in Section 10 of Hindu Succession Act, 1956 which read as follows :-

“9. Order of succession among

heirs in the Schedule – Among the heirs specified in the Schedule, those in class I shall take simultaneously and to the exclusion of all other heirs; those in the first entry in class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

10. Distribution of property among

heirs in class I of the schedule – The property if an intestate shall be divided among the heirs in class I of the Schedule in accordance with the following rules:-

Rule 1 – the intestate’s widow, or

if there are more widows than one, all the widows together, shall take one



share.

Rule 2 – The surviving sons and daughters and the mother of the intestate shall each take one share.

Rule 3 – The heirs in the branch of each pre-deceased son or each pre-deceased daughter of the intestate shall take between them one share.

Rule 4 – The distribution of the share referred to in rule 3:-

(i) among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widow together) and the surviving sons and daughters get equal portions; and the branch of his pre-deceased sons gets the same portion;

(ii) among the heirs in the



branch of the pre-deceased daughter shall be so made that the surviving sons and daughters get equal portions.”

6. After going through the above provision of Section 8, it clearly transpires that the property of a male hindu dying intestate shall devolve firstly upon the heirs, being the relatives specified in class I of the Schedule which is mentioned at page 47 of Hindu Succession Act, 1956.

“ THE SCHEDULE

HEIRS IN CLASS I AND CLASS 11

Class I

Son; daughter, widow; mother; son of a pre-deceased son; daughter of a pre-deceased son; son of a pre-deceased daughter; daughter of a pre-deceased daughter; widow of a pre-deceased son; son of a pre-deceased son of a pre-deceased son; daughter of a pre-deceased son of a pre-deceased son; widow of a pre-deceased son of a pre-deceased son [son of a pre-deceased daughter of a pre-deceased daughter, daughter of a pre-deceased



daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son].

Class II

1. Father.

II. (1) Son's daughter's son, (2) son's daughter's daughter, (3) brother, (4) sister.

III. (1) Daughter's son's son, (2) daughter's son's daughter, (3) daughter's daughter's son, (4) daughter's daughter's daughter.

IV. (1) Brother's son, (2) sister's son, (3) brother's daughter, (4) sister's daughter.

V. Father's father; father's mother.

VI. Father's widow; brother's widow.

VII. Father's brother, father's sister.

VIII. Mother's father, mother's mother.

IX. Mother's brother, mother's sister.”

7. After going through the aforesaid Schedule, it is evident that the brother of the deceased falls under Class II heirs, who are entitled to succeed only in the absence of any Class I heir. In the present case, the



widow, who is a Class I heir, is already the applicant. Therefore, it prima facie appears that the four brothers seeking impleadment in the succession case are neither necessary nor proper parties, as they have no right interest or share in the movable property of the deceased during the lifetime of his widow, who is a Class I heir. The movable property of the deceased is required to be distributed first among the Class I heirs, and only in their absence succession will open in favour of any Class II heirs.

8. Accordingly instant Civil Misc. No. 588 of 2025 stands dismissed.

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.01.2026
Transmission Date	NA

