

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.580 of 1977

- =====
1. Shri Kartik Prasad Jaishwal, son of late Sheo Prasad Sah, (since deceased and substituted by his following heirs and legal representatives vide order dated 14.09.1987)
 - 1 (i) Harindra Kumar Jaiswal
 - 1 (ii) Narendra Kumar Jaiswal
 - 1 (iii) Sachindra Kumar Jaiswal
Sons of late Kartik Pd. Jaiswal, residents of Mohalla Miscot, P.O and P.S. Motihari, District-East Champaran.
 - 1 (iv) Anirudha Devi, daughter of late Kartik Prasad Jaiswal and W/o Dr. Sachidanand Prasad, Venternary doctor, resident of Town of Jamshedpur, District Singhbhoom.
 2. Shri Kanhaiya Prasad, son of late Sita Prasad Shah (since deceased and substituted by his following heirs and legal representatives vide order dated 16.7.1998)
 - 2.(i) Mostt. Chandrawati Devi, widow of Kanhaiya Prasad Shah
 - 2(ii) Mostt. Kaushlya Devi, widow of late Sita Prasad Shah and mother of Kanhaiya Prasad Shah.
Both resident of village-Mescout, Town and Police Station-Motihari, District-East Champaran.
 - 2(iii) Smt. Poonam Devi, daughter of late Kanhaiya Prasad (since deceased and substituted by the following heirs and legal representatives vide order dated 16.7.1998)
 - 2(iii) (a) Bhoopendra Kumar Chaudhary, husband of Smt. Poonam Devi and Son of Shri Ganga Prasad Choudhary
 - 2(iii) (b) Kumari Priyanka Jaiswal, daughter of Smt. Poonam Devi
 - 2(iii) (c) Shubham Chaudhary, son of Smt. Poonam Devi
Resident of K-57, 19 Nawapura, Daranagar, Police Station-Kotwali, District Varanasi (U.P.).
 3. Smt. Kailasho Devi, widow of Lalbabu Shah, resident of Mohalla-Bazazpatti, Town and P.S.-Motihari, District-East Champaran. (since deceased) (Her heirs are already on record as appellant no.4 and respondent nos.8 to 10, vide order dated 05.03.1979).
 4. Shri Jagdish Prasad, son of LalBabu Sah, (since deceased and substituted by following heirs vide order dated 3.9.1977)
 - 4(i) Most. Shakuntala Kuer, widow of Jagdish Prasad, deceased
 - 4(ii) Binay Prasad @ Binay Kumar Jaiswal
 - 4(iii) Ajay Prasad @ Ajay Jaiswal
 - 4(iv) Sanjay Jaiswal
 - 4(v) Bijay Jaiswal
All sons of Jagdish Prasad, deceased, residents of Bajajpatti, main road Town and Police Station-Motihari, District-East Champaran.
 - 4(vi) Smt. Rambha Rani Jaiswal, wife of Hari Kishore Jaiswal and daughter of Jagdish Prasad, deceased, resident of Mohalla Bari Bazar, Opposite Rajbari Town, Police Station and District-Munger at present resident at Mohalla-Bajajpatti Main Road Town and Police Station-Motihari, District- East Champaran.
 - 4(vii) Smt. Reena Rani Jaiswal, wife of Sri Parmanand Prabhakar and daughter of Jagdish Prasad, deceased, resident of village and post office-Bachhaita, Police Station-Khagaria, District-Khagaria at present

residing at Mohalla- Bajajpatti Main Road Motihari, District-East Champaran.

4(viii) Smt. Reeta Jaiswal, wife of Sri Mukul Chand and daughter of Jagdish Prasad, deceased, resident of at and Post Office-Durgapur, District-Durgapur (W.B.) at present residing at Mohalla-Bajajpatti Main Road Motihari, District-East Champaran.

4 (ix) Smt. Rekha Jaiswal, wife of Sri Ashok Bharti and daughter of Jagdish Prasad, deceased, resident of Mohalla-Chatturbhuj Asthan Durgapath at and Post Office-Muzaffarpur, Police Station and District-Muzaffarpur at present residing at Mohalla-Bajajpatti Main Road Motihari, District-East Champaran.

.... Defendants 2nd Party-Appellant/s
Versus

1. Parmeshwar Nath Jaiswal , son of Shri Raghunath Prasad Shah, deceased,
2. Shri Someshwar Nath Jaiswal, son of Shri Raghunath Prasad Shah (since deceased and substituted by following heirs vide order dated 22.8.1988)
- 2(i) Gita Devi, daughter of late Someshwar Nath Jaiswal and wife of Shri Binod Prasad Jaiswal, resident of Mohalla-Pakari Bazar, Police Station-Motihari, District-East Champaran
- 2(ii) Gayatri Devi, daughter of late Someshwar Nath Jaiswal of Mohalla Panchmandir, Police Station-Motihari, District-East Champaran.
3. Mostt. Sudama Devi, wife of Raghunath Prasad Shah, deceased (She is dead. Her heirs are already on the record as Respondents 1, 2(i), 2(ii), 4 and 5, vide order dated 9.9.1994)
4. Smt. Dharamshila Devi, daughter of Shri Raghunath Prasad Shah deceased.
5. Shrimati Premshila Devi, daughter of Shri Raghunath Prasad Shah, deceased.
Residents of Mohalla Henry Bazar Town and P.S.-Motihari, District-East Champaran.

Plaintiffs-Respondents 1st Party.

6. Raghavendra Tiwari, son of Pt. Bishun Tewari
7. Rudra Nath Tewari, minor son of Balbhadra Tewari
Both resident of village-Bhawanipur P.O. & P.S. Sugauli, District-East Champaran.

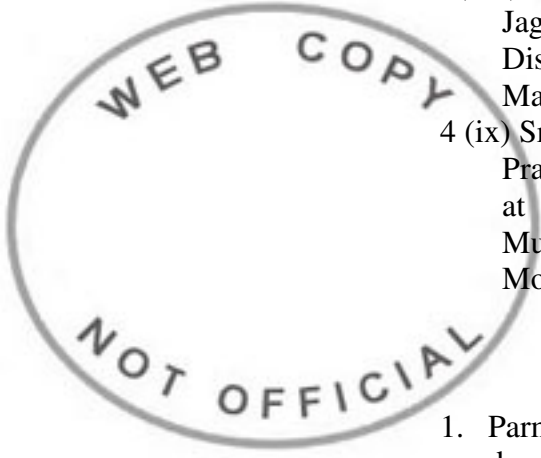
...Defendants 1st Party-Respondents 2nd Party.

8. Smt. Prem Kumari, daughter of Lal Babu Shah, deceased and wife of Sheodayal Prasad, resident of Patna City, District-Patna, a present Mohalla Bazazpatti Town & P.S.-Motihari, District-East Champaran.
9. Smt. Shail Kumari, daughter of Lal Babu Shah, deceased and wife of Narayan Prasad Jaiswal, resident of Godda Town at present-Motihari, Champara East.
10. Smt. Sudha Kumari, daughter of Lal Babu Shah, deceased and wife of Berendra Kumar Jaiswal of Bettiah Town, at present-Bazazpatti Town and P.S.-Motihari, District-East Champaran.

.... Defendant 2nd Party- Respondent 3rd Party.

.... Respondent/s

=====



Appearance :

For the Appellant/s : None

For the Respondent/s : None

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

33 11-02-2015

This appeal is preferred against the judgment and decree dated 24.05.1977 passed by the Court of Additional Subordinate Judge, Motihari, East Champaran district, in Title Suit No.341 of 1938, later renumbered as 77 of 1977.

The defendants are the appellants. The suit was filed for relief of declaration of title and recovery of possession of the suit property, detailed in Scheduled-III.

After conducting the trial of the suit, the trial Court decreed the same.

The matter was listed for hearing with an advance intimation. There is no representation for the appellant.

Having regard to the fact that the appeal is more than 35 years old, the Court has itself perused the record.

The proceedings-sheet discloses that almost at every stage, there was no representation and the rectification of the defects itself went on for about one and half decades. On numerous occasions, there was no representation for the

appellants even in the year 1980 and thereafter.

This Court does feel it proper to wait any longer.

The reason is that the operation of the decree was not stayed, and in all probability, the decree may have been put to execution. Nothing remains.

The appeal is dismissed for default.

(L. Narasimha Reddy, CJ)

Sunil/-

U			
---	--	--	--