

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.358 of 2007

Raghunath Prasad Roy, Son of Late Bam Bahadur Roy, resident of Mohalla-Kashipur, Ward No.-3, P.S.-Samastipur, District-Samastipur.

.....Petitioner/Appellant

Versus

1. Sonamani Prasad, Wife of Late Krishna Kumar Prasad.
2. Vena Bhatat, Daughter of Late Krishna Kumar Prasad.
3. Uma Gupta, Daughter of Late Krishna Kumar Prasad.
4. Ranjana Bhagat, Daughter of Late Krishna Kumar Prasad.
5. Vijay Kumar Prasad, Son of Late Jagarnath Prasad.

All residents of Mohalla-Bangali Tola, Station Road, in front of G.R.P. Police Station, P.S.-Samastipur, District-Samastipur.

.....Plaintiffs/Opposite Parties

6. Guneshwari Devi, Wife of Late Ramchandra Prasad.
7. Usha Rani, Wife of Late Uday Shankar Prasad.
8. Arvind Kumar, Son of Late Uday Shankar Prasad.
9. Dolly, Daughter of Late Uday Shankar Prasad.
10. Dejee, Daughter of Late Uday Shankar Prasad.
11. Vijay Shankar Prasad, Son of Late Ramchandra Prasad.
12. Jyoti Shankar Prasad, Son of Late Ramchandra Prasad.
13. Binod Shankar Prasad, Son of Late Ramchandra Prasad.
14. Ravi Shankar Prasad, Son of Late Ramchandra Prasad.

All residents of Mohalla-Magerdahi, Station Road, Rambabu Chowk, P.S.-Samastipur, District-Samastipur.

.....Defendants/Opposite Parties

Appearance :

For the Appellant/s : Mr. Prafull Chandra Jha, Advocate

Mr. Satyjit, Advocate

For the Respondent/s : Mr. Upendra Prasad, Advocate

Mrs. Veena Kumari Jaiswal, Advocate

CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 20-02-2015

This file is brought under the heading “**For Orders (On Office Notes)**”.

2. Perused the office notes.

3. Heard both sides.

4. This is an appeal preferred against the order dated 13th July, 2007 read with order dated 24th January, 2007 passed in Miscellaneous Case No. 6 of 2002 / 34 of 2004 arising out of Partition Suit No. 117 of 1947 by 1st Subordinate Judge, Samastipur.

5. This appeal has chequered history. Initially, it was dismissed for non-prosecution and M.J.C. No. 547 of 2008 seeking restoration has also been dismissed. Meanwhile, interlocutory application seeking stay of partition of the impugned order has also been dismissed.

6. True it is, therefore, M.J.C. No. 4316 of 2014 seeking restoration of present appeal has been filed, but taking into consideration, the chequered history of the case and the dispute between the parties right from the year 1947 (pre-independence days), there is an agreement between the

members of the Bar that no party is going to be served in keeping this appeal pending, hence, let it be treated disposed of without any adjudication on merit. Further, learned counsel for the appellant shall withdraw the pending M.J.C. aforesaid since now infructuous.

7. Accordingly, the appeal stands disposed of. The court below is directed to decide the pending issues, if any, at the earliest in accordance with law.

(Akhilesh Chandra, J)

Praveen-II/-

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