

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17070 of 2010

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1. Pinki Devi W/O Late Achuta Nand Singh R/O Bhikhanpur, P.S.- Ishakchak, Distt.- Bhagalpur
 2. Pinki Devi Wife Of Late Achuta Nand Singh
 3. Pusp Raj Son Of Late Achuta Nand Singh
 4. Pusp Raj S/O Late Achuta Nand Singh R/O Bhikhanpur, P.S.- Ishakchak, Distt.- Bhagalpur
 5. Jai Shree @ Miss Lakhami Minor D/O Late Achuta Nand Singh Through Their Guardian Smt. Pinki Devi R/O Bhikhanpur, P.S.- Ishakchak, Distt.- Bhagalpur
 6. Jai Shree Alias Miss Lakhami
 7. Bhag Shree @ Miss Chhoti Minor D/O Late Achuta Nand Singh Through Their Guardian Smt. Pinki Devi R/O Bhikhanpur, P.S.- Ishakchak, Distt.- Bhagalpur
 8. Bhag Shree Alias Miss Chhoti Null
 9. Anupam Shree Alias Miss Raji All Are Minor Daughters Of Late Achuta Nand Singh Through Their Guardian Smt. Pinki Devi All Resident Of Bikhanpur, P.S. Ishakchak, District- Bhagalpur
 10. Anupam Shree @ Miss Raji Minor D/O Late Achuta Nand Singh Through Their Guardian Smt. Pinki Devi R/O Bhikhanpur, P.S.- Ishakchak, Distt.- Bhagalpur

.... Petitioner/s

Versus

1. Smt. Anita Devi D/O Late Achuta Nand Singh, W/O Sri Kailash Prasad Singh R/O Vill.- Balia, P.S.- Sangrampur, At Present Near Zero Mile, P.S.- Barari, Distt.- Bhagalpur
2. Kailash Prasad Singh S/O Lae Kamleshwari Pd. Singh (Husband Of The Deceased Smt. Anita Devi) (Ii) Seema Kumari (Iii) Ramashish Kumar Singh (Iv) Rishi Anand Daughter And Sons Of Kailash Pd. Singh All R/O Jyoti Bihar Colony, Zero Mile, P.S. Adyogic Zero Mile, Distt- Bhagalpur
3. Smt. Suruchi Devi Wife Of Sri Ram Niwash Singh Resident Of Durgapur P.S. Sangrampur, P.O. Kamargama, District Munger
4. Smt. Suruchi Devi W/O Sri Ram Niwash Singh R/O Durgapur, P.S.- Sangrampur, P.O.- Kamargama, Distt.- Munger
5. Tilkamanjhi Bhagalpur University, Bhagalpur Through Its Vice Chancellor Smt. Prema Jha Has Having Her Office Within Tilkamanjhi Bhagalpur University Campus, P.S.- University, Thana, Distt.- Bhagalpur
6. Tilkamanjhi Bhagalpur University, Bhagalpur Through Its Vice Chancellor Smt. Prema Jha, Has Her Office Within Tilkamanjhi Bhagalpur University Campus, P.S. University, Thana, District Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh 2

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-07-2015

None appears on behalf of the respondents despite valid service of notice.

Partition Suit registered as Title Suit No.212 of 2007 was filed by the plaintiffs seeking 1/5th share in property described in schedule A of the plaint. Petitioners are the defendants. Time was granted to file written statement. They defaulted, therefore, the court debarred them from filing written statement on 15.9.2008. Now, a written statement has been filed on 2.3.2009 and even an application was moved for recall of the order dated 15.9.2008 and to accept the written statement on their behalf. The petition indicates the reasons which prevented these defendants from filing the written statement in question.

No doubt, after the amendment of the CPC, certain power has been conferred on the courts to expedite decisions of such disputes within a reasonable time frame but in a suit for partition merely because these defendants were not vigilant enough to file a written statement in time and there seems to be some cogent and valid reasons especially after the death of the husband of Pinki Devi, who also happened to be an employee of Tilka Manjhi Bhagalpur University. Not only this one of the son was falsely implicated in a criminal case by the plaintiff, therefore, all the energy and resources got diverted in securing release of the said son.

There were cogent reasons for non- filing of written statement. Debarment will have serious consequences for the defendants, therefore, the court below has been hyper technical in rejecting the prayer of the petitioners vide order dated 24.6.2009 passed in Title Suit No.212 of 2007 by learned Sub Judge III, Bhagalpur. The impugned order is set aside. The written statement of the defendants will be accepted and the suit will thereafter proceed in accordance with law. The defendants will deposit a cost of Rs.500/- payable to the plaintiffs for the delay and inconvenience caused.

Writ is allowed.

(Ajay Kumar Tripathi, J)

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